



भारत का गाजेट

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सं. 36]
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नई दिल्ली, शनिवार, सितम्बर 8 2001/आष 17, 1923
NEW DELHI, SATURDAY, SEPTEMBER 8, 2001/BAUDRA 17, 1923

इस भाग में जिस पृष्ठ संख्या को जाती है जिससे कि यह प्रत्येक संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (II)
PART II—Section 3—Sub-Section (II)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सार्विधिक घावेश और अधिसूचनाएँ
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(other than the Ministry of Defence)

वित्त मंत्रालय
(राजस्व विभाग)

नई दिल्ली, 17 अगस्त, 2001

स्टाम्प

का. श्रा 2281—भारतीय स्टाम्प अधिनियम, 1899
(1899 का 2) की धारा 9 की उप-धारा (1) के खण्ड (ख)
धारा प्रदत्त शक्तियों का प्रयोग करते हुये, केन्द्रीय सरकार
एतद्वारा मे. आई.सी.आई.सी.आई. लिमिटेड, मुम्बई को
भाव एक करोड़ उन्नाम लाख सडसठ हजार मात्र सौ पचास
रुपये का समेकित स्टाम्प शुल्क देवा करने की अनुमति प्रदान
करती है, जो उक्त कम्पनी द्वारा जारी किये जाने वाले एक
सौ निन्यानवे करोड़ सत्तावन लाख रुपये के समग्र मूल्य के
बंधपत्रों के स्वरूप वाले 399140 आई.सी.आई.सी.आई.

प्रसुरक्षित विवोध बंधपत्रों (जून, 2001 निर्गम) पर स्टाम्प
शुल्क के कारण प्रभावी है।

[सं 31/2001-स्टाम्प-का. सं. 33/44/2001-वि. क.]
श्राव. जी छावडा, अवर सचिव

MINISTRY OF FINANCE
(Department of Revenue)

ORDER

New Delhi, the 17th August, 2001

STAMPS

S.O. 2281.—In exercise of the powers conferred by
clause (b) of sub-section (1) of section 9 of the Indian
Stamp Act, 1899 (2 of 1899), the Central Government
hereby permits M/s. JCICI Limited, Mumbai to pay
consolidated stamp duty of rupees one crore forty-
nine lakh sixty-seven thousand seven hundred fifty
only chargeable on account of the stamp duty on

399140 ICICI Unsecured Redeemable Bonds (June, 2001 Issue) in the nature of Debentures aggregating to rupees one hundred ninety nine crores fifty seven lakh only, to be issued by the said company.

[No. 31/2001-STAMPS-F.No 33/44/2001-ST]
R.G. CHHABRA, Under Secy.

आदेश
नई दिल्ली, 17 अगस्त, 2001

स्टाम्प

का.आ. 2282—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा अप्प होटल लिमिटेड चेन्नई को मात्र यात्रह लाख पचास हजार रुपये का समेकित स्टाम्प शुल्क अदा करने की अनुमति प्रदान करती है, जो उक्त कम्पनी द्वारा जारी किए जाने वाले मात्र पन्द्रह करोड़ रुपये के समग्र मूल्य के एक-एक सौ रुपये प्रत्येक के 10001 से 1510000 तक विशिष्ट सरय, वाले सुरक्षित विमोच्य, अपरिवर्तनीय अर्हणपत्रों पर स्टाम्प शुल्क के कारण प्रभार्य है।

[स. 32/2001-स्टाम्प-फा. स 33/21/2001-बि.क]
आर जी. छाबड़ा, अवर सचिव

ORDER

New Delhi, the 17th August, 2001

STAMPS

S.O. 2282.—In exercise of the powers conferred by clause (b) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits Appu Hotels Limited, Chennai to pay consolidated stamp duty of rupees eleven lakh twenty five thousand only chargeable on account of the stamp duty on Secured Redeemable Non-Convertible Debentures bearing distinctive numbers from 10001 to 1510000 of rupees one hundred each aggregating to rupees fifteen crore only, to be issued by the said company.

[No. 32/2001-STAMPS-F No. 33/21/2001-ST]
R.G. CHHABRA, Under Secy

आदेश

नई दिल्ली, 17 अगस्त, 2001

स्टाम्प

का.आ. 2283—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा मैं कोटस् पाइ इंडिया, लिमिटेड, कलकत्ता को मात्र दो लाख पैसास हजार रुपये का समेकित स्टाम्प शुल्क अदा करने की अनुमति प्रदान करती है, जो उक्त कम्पनी द्वारा जारी किए जाने वाले मात्र सैतालीम करोड़ रुपये के समग्र मूल्य के प्रोमिसरी नोटों के स्वरूप वाले वाणिज्यिक पेपरों पर प्रभार्य है।

किंतु जाने वाले मात्र क्षारीस करोड़ रुपये के समग्र मूल्य के प्रोमिसरी नोटों के स्वरूप वाले वाणिज्यिक पेपरों पर प्रभार्य हैं।

[स 33/2001 स्टाम्प-फा स 33/45/2001-बि.क]
आर जी. छाबड़ा, अवर सचिव

ORDER,

New Delhi, the 17th August, 2001

STAMPS

S.O. 2283.—In exercise of the powers conferred by clause (b) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1999), the Central Government hereby permits M/s Creats of India Limited, Calcutta to pay consolidated stamp duty of rupees two lakh only on Commercial Papers in the nature of Promissory Notes aggregating to rupees forty crores only, to be issued by the said Company.

[No. 33/2001-STAMPS F.No. 33/45/2001-ST]
R.G. CHHABRA, Under Secy

आदेश

नई दिल्ली, 17 अगस्त, 2001

स्टाम्प

का.आ. 2284—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा बर्जेर पेन्ट्स इंडिया लिमिटेड कलकत्ता को मात्र दो लाख पैसास हजार रुपये का समेकित स्टाम्प शुल्क अदा करने की अनुमति प्रदान करती है, जो उक्त कम्पनी द्वारा जारी किए जाने वाले मात्र सैतालीम करोड़ रुपये के समग्र मूल्य के प्रोमिसरी नोटों के स्वरूप वाले वाणिज्यिक पेपरों पर प्रभार्य है।

[स 34/2001 स्टाम्प-फा. स 33/43/2001-बि.क]
आर जी. छाबड़ा, अवर सचिव

ORDER

New Delhi, the 17th August, 2001

STAMPS

S.O. 2284.—In exercise of the powers conferred by clause (b) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits Berger Paints India Limited, Calcutta to pay consolidated stamp duty of rupees two lakh thirty five thousand only on Commercial Papers in the nature of Promissory Notes aggregating to rupees forty seven crores only, to be issued by the said Company.

[No. 34/2001-STAMPS-F. No. 33/43/2001-ST]
R. G. CHHABRA, Under Secy.

आदेश

नई दिल्ली, 17 अगस्त, 2001

स्टाम्प

का. ना. 2285.—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपद्वारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा मैं भारतीय ओबोगिक वित्त निगम लिमिटेड, नई दिल्ली को मात्र एक करोड़ इनवेन्यू लाख उन्नास हजार छ. सौ पैसठ रुपये का समेकित स्टाम्प शुल्क अदा करने की अनुमति प्रदान करती है। जो निम्न प्रकार वर्णित प्रोमिसरी नोटों के स्वरूप के बंधपत्रों पर स्टाम्प शुल्क के कारण प्रभार्य है—

- (क) 8-6-2001 तथा 19-6-2001 को आवंटित किए गए मात्र चवालीस करोड़ पच्चासी लाख रुपये के समग्र मूल्य के 200100001 से 200104485 तक की विशिष्ट संख्या वाले आई.एफ.सी.आई.आई-टॉप बंधपत्र;
- (ख) 20-5-2001 को आवंटित किए गए मात्र एक सौ अड़तीस करोड़ सैंतीस लाख रुपये के समग्र मूल्य के 4100001 से 4113837 तक की विशिष्ट संख्या वाले आई.एफ.सी.आई.पीपी बंधपत्र (41वीं शृंखला);
- (ग) 15-5-2001, 16-5-2001, 24-5-2001, 3-6-2001, 26-6-2001 तथा 19-7-2001 को आवंटित किए गए मात्र सौलह करोड़ पचपन लाख बतीस हजार नौ सौ उन्नीस रुपये के समग्र मूल्य के 0020042 से 0020047 तक की विशिष्ट संख्या वाले आई.एफ.सी.आई जमा प्रमाण पत्र।

[सं. 35/2001-स्टाम्प-का. सं. 33/46/2001-वि.क.]

आर. जी. छाबड़ा, अवर सचिव

ORDER

New Delhi, the 17th August, 2001

STAMPS

S.O. 2285.—In exercise of the powers conferred by clause (b) of sub-section (1) of Section 9 of the Indian Stamps Act, 1899 (2 of 1899), the Central Government hereby permits M/s. IFCI Limited, New Delhi to pay consolidated stamp duty of rupees one crore ninety one lakh forty nine thousand six hundred sixty five only chargeable on account of the stamp duty on Bonds in the nature of promissory notes described as :

- (a) IFCI 'On-Tap' Bonds bearing distinctive numbers from 200100001 to 200104485 aggregating to rupees forty four crore eighty five lakh only allotted on 08-06-2001 and 19-6-2001

(b) IFCI PP Bonds (41st Series) bearing distinctive numbers from 4100001 to 4113837 aggregating to rupees one hundred thirty eight crore thirty seven lakh only allotted on 20-05-2001;

(c) IFCI Certificate of Deposit bearing distinctive numbers from 0020042 to 0020047 aggregating to rupees sixteen crore fifty-five lakh thirty-two thousand nine hundred twenty-nine only allotted on 15-05-2001, 16-05-2001, 24-05-2001, 03-06-2001, 26-06-2001 and 19-07-2001;

by the said Company.

[No. 35/2001-STAMPS-F. No. 33/46/2001-ST]

R. G. CHHABRA, Under Secy.

उपभोक्ता मामले, खात्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

नई दिल्ली, 23 अगस्त, 2001

का. ना. 2286.—केन्द्रीय सरकार, राजभाषा (संघ के जासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 के नियम 10 के उपनियम (4) के अनुसरण में उपभोक्ता मामले, खात्य और सार्वजनिक वितरण मंत्रालय के अधीन भारतीय मानक ब्यूरो, नई दिल्ली के निम्नलिखित क्षेत्रीय कार्यालयों, जिनके 80 प्रतिशत से अधिक अधिकारियों/कर्मचारियों ने हिन्दी का कार्यसाधक जान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है :—

1. भारतीय मानक ब्यूरो,
मध्य क्षेत्रीय कार्यालय, मानक भवन,
9 बहादुरसाह जफर मार्ग, नई दिल्ली—110002
2. भारतीय मानक ब्यूरो,
पूर्वी क्षेत्रीय कार्यालय,
1/14, सीआईटी स्कीम 7,
दी आई पी रोड, काकुरगांठी, कोलकाता—700054

[संख्या ई-11012/4/2000-हिन्दी]

आई. एम. सोंधी, उप सचिव

MINISTRY OF CONSUMER AFFAIRS, FOOD
AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

New Delhi, the 23rd August, 2001

S.O. 2286.—In pursuance of sub-rule (4) of Rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following Regional Offices of Bureau of Indian Standards, New Delhi under the Ministry of Consumer Affairs, Food and Public

Distribution where more than 80% of the staff have acquired working knowledge of Hindi :

1. Bureau of Indian Standards, Central Regional Office, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi 110 002.
2. Bureau of Indian Standards, Eastern Regional Office, 1/14, C.I.T. Scheme 7, V.I.P. Road, Kankurgachi, Kolkata 700 054.

[No. E-11012/4/2000-Hindi]
I. M. SONDHI, Dy. Secy.

कोप्ता: मंत्रालय

शुद्धि पत्र

नई दिल्ली, 31 अगस्त, 2001

का.आ. 2287.—भारत के राजपत्र भाग-II, खंड-3, उपखंड (ii) में तारीख 12 मई 2001 के पृष्ठ क्रमांक 1977 से 1981 पर प्रकाशित भारत सरकार के कोप्ता मंत्रालय की अधिसूचना का.आ. स. 949 तारीख 26 अप्रैल, 2001 में—

पृष्ठ क्रमांक 1977 में—

- (1) अधिसूचना के पहले परिष्केत्र की चौथी पंक्ति में “खंड” के स्थान पर “खंड 3” पढ़िये।
- (2) पृष्ठ क्रमांक 1978 में—
 - (1) अधिसूचना के तीसरे परिष्केत्र की तीसरी पंक्ति में—“कलकत्ता-70001” के स्थान पर “कलकत्ता-700001” पढ़िये।
 - (2) अनुमूली में—पांचवे स्तम्भ में “के स्थान पर “तहसील” पढ़िये। छठवें स्तम्भ में “जिला तहसील” के स्थान पर “जिला” पढ़िये।
- (3) ग्राम कोलगांव में अर्जित किये गये प्लाट संख्याएँ में—प्लाट संख्या “115/1, 115/2” के स्थान पर “115/1-115/2” पढ़िये।

(4) ग्राम टाकली में अर्जित किये गये प्लाट संख्याएँ में—

प्लाट संख्या “74/1-74/2, 74/3” के स्थान पर “74/1-74/2-74/3” पढ़िए।

(5) दर्शये गये कुल क्षेत्र “834.26 एकड़” को संशोधित कर “843.26 एकड़” पढ़ा जाए।

[का. सं. 43015/18/96-LW/PRIW]

संजय बहादुर, उप सचिव

MINISTRY OF COAL

CORRIGENDUM

New Dehli, the 31st August, 2001

S.O. 2287.—In the notification of the Government of India in the Ministry of Coal No. S.O. 949 dated the 26th April, 2001 published at pages 1977 to 1981 of the Gazette of India, Part-II, Section-3, Sub-Section (ii) dated 12th May, 2001 :—

(1) at page 1980

in plot numbers acquired in Village Kolgaon for plot numbers,---

(i) “102/1-102/2-103/3”, read “102/1-102/2-102/3”

(ii) “162/1, 16/2”, read “162/1-162/2”;

(iii) “172/1, 172/2, 172/3”, read “172/1-172/2-172/3”;

(1) at page 1981—

in boundary description relating to E-F-G-H, in line ?,

for “thruugh”, read ‘through’

[F. No. 43015/18/96-LW/PRIW]

SANJAY BAHADUR, Dy. Secy.

नई दिल्ली, 31 अगस्त, 2001

का.आ. 2288.—केन्द्रीय सरकार ने कोयता धारक क्षेत्र (अर्जित और बिकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) के अधीन जारी भारत के राजपत्र भाग II, खंड 3, उपखंड (ii) तारीख 5 अगस्त, 2000 में प्रकाशित भारत सरकार के कोप्ता मंत्रालय की अधिसूचना संख्या का.आ. 1762 तारीख 21 जुलाई, 2000 द्वारा उस अधिसूचना से उपायद्वारा अनुसूची में, विनिर्दिष्ट परिष्केत्र की भूमि में जिसका माप 959.922 हेक्टर (लगभग) या 2371.97 एकड़ (लगभग) है, कोयते का पूर्वेक्षण करने के अपने आशय की सूचना दी थी ;

और केन्द्रीय सरकार का यह समाधान हो गया है कि उक्त भूमि के भाग में कोयता अभिप्राप्य है ;

प्रतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निम्नलिखित भूमि का अर्जित करने के अपने आशय की सूचना देती है :

(1) धारा प्रदत्त शक्तियों का प्रयोग करते हुए, निम्न-

(क) इससे संलग्न अनुसूची "क" में वर्णित 9.259 हेक्टर (लगभग) या 22.88 एकड़ (लगभग) माप की भूमि ;
 (ख) इससे संलग्न अनुसूची "ख" में वर्णित 370.525 हेक्टर (लगभग) या 915.57 एकड़ (लगभग) माप की भूमि में खनिज प्राप्त करने, उन पर कार्य करने और ले जाने के लिए खनन, वेधन, खुदाई और पता लगाने के अधिकार ;

टिप्पण 1. इस अधिनियम के अन्तर्गत आने वाले क्षेत्र के रेखांक सं. एसईसीएल/बीएसपी/जीएम (पीएलजी)/लैड/247 तारीख 10 अप्रैल, 2001 का निरीक्षण क्लेक्टर, शहडोल, (मध्य प्रदेश) के कायलिय में या कोयला नियन्त्रक, 1, काउंसिल हाउस स्ट्रीट, कलकत्ता-700 001 के कार्यालय में या सात्रथ ईस्टर्न कोलकाता लि. (राजस्व अनुभाग), सीपत रोड, बिलासपुर-495 006 (छत्तीसगढ़) के कार्यालय में किया जा सकता है ।

टिप्पण 2. उक्त अधिनियम की धारा 8 के उपबंधों की ओर ध्यान आकृष्ट किया जाता है जिसमें निम्नलिखित उपबंध है—
 अर्जन के प्रति आक्षेप ।

"8(1) कोई व्यक्ति जो किसी भूमि, में जिसकी बाबत धारा 7 के अधीन अधिसूचना निकाली गई है, अधिसूचना के निकाले जाने से तीस दिन के भीतर सम्पूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उस पर के किन्हीं अधिकारों का अर्जन किए जाने के दारे में आक्षेप कर सकता है ।

स्पष्टीकरण : इस धारा के अर्थान्तर्गत वह आक्षेप नहीं समझा जाएगा कि कोई व्यक्ति किसी भूमि में कोयला उत्पादन के लिए स्वयं खनन संत्रियाएं करना चाहता है और यह कि ऐसी संत्रियाएं केन्द्रीय सरकार या किसी अन्य को नहीं करनी चाहिए ।

2. उपधारा (1) के अधीन प्रत्येक आक्षेप सक्षम प्राधिकारी को लिखित रूप में किया जाएगा और सक्षम प्राधिकारी, आक्षेपकर्ता को स्वयं या किसी विधि व्यत्रायी के द्वारा सुनवाई का अवसर देगा और ऐसे सभी आक्षेपों की सुनवाई के पश्चात् और ऐसी और जांच, यदि कोई हो, करने के पश्चात् जो वह आवश्यक समझे, वह या तो धारा 7 की उपधारा (1) के अधीन अधिसूचित भूमि के या उक्त भूमि में या उस पर के अधिकारों के संबंध में केन्द्रीय सरकार की एक रिपोर्ट या ऐसी भूमि के विभिन्न टृकड़ों या उक्त भूमि में या उस पर के अधिकारों के संबंध में विभिन्न रिपोर्ट, आक्षेपों पर अपनी सिफारिशों और उसके द्वारा की गई कार्यवाहियों के प्रभिलेख सहित उक्त सरकार के विनिश्चय के लिए देगा ।

3. इस धारा के प्रयोजनों के लिए वह व्यक्ति किसी भूमि में हितबद्ध समझा जाएगा जो प्रतिकर में हित का दावा करने का हक्कार होता यदि इस अधिनियम के अधीन भूमि या किसी ऐसी भूमि में या उस पर के कोई अधिकार अर्जित किए जाते ।"

टिप्पण 3. केन्द्रीय सरकार द्वारा कोयला नियन्त्रक, 1 काउंसिल हाउस स्ट्रीट, कलकत्ता 700 001 को उक्त अधिनियम की धारा 3 के अधीन भारत के राजपत्र भाग II, खंड-3 उपखंड (ii) के अधीन भारत राजपत्र, भाग II, खंड-3 उपखंड (ii), तारीख 4 अप्रैल, 1987 के पृष्ठ 397 से 1400 पर प्रकाशित अधिसूचना का.आ. 905, तारीख 20 मार्च, 1987 द्वारा सक्षम प्राधिकारी नियुक्त किया गया है ।

अनुसूची "क"

वामनी खंड

सोहागपुर क्षेत्र

जिला—शहडोल (मध्य प्रदेश)

सभी अधिकार

क्रम सं.	ग्राम का नाम	पटवारी हरूका हु.सं. तहसील	जिला	क्षेत्र हेक्टर में	टिप्पणियां
1	कन्दोहा	93 सोहागपुर	शहडोल	9.259	भाग

कुल—9.259 हेक्टर (लगभग) या 22.88 एकड़ (लगभग)

1. ग्राम कन्दोहा (भाग) में अर्जित किए जाने वाले प्लाट संख्यां :

122(भाग), 124, 134(भाग), 135(भाग), 136(भाग), 137, 138, 141, 142, 149, 150, 195 से 197 ।

सीमा घण्टन :

क 1-क 2

रेखा ग्राम कन्दोहा में विन्दु "क 1" से शार्ख होती है और व्याट संख्या 124 की पश्चिमी सीमा से होने द्वारा दूर "क 2" पर मिलती है ।

क 2—क 3 रेखा प्लाट संख्या 124 की दक्षिणी सीमा, प्लाट संख्या 122 से, प्लाट संख्या 138, 137, 141, 197, 196, 195 की दक्षिणी सीमा से होते हुए बिन्दु “क 3” पर मिलती है।

क 3—क 4 रेखा प्लाट संख्या 195, 150 की पूर्वी सीमा से होते हुए बिन्दु “क 4” पर मिलती है।

क 4—क 5 रेखा प्लाट संख्या 150, 149, 142 की उत्तरी सीमा, प्लाट संख्या 134 की पूर्वी सीमा से होते हुए बिन्दु “क 5” पर मिलती है।

क 5—क 6 रेखा प्लाट संख्या 134, 135, 136, से, प्लाट संख्या 136, 137 की पश्चिमी सीमा, प्लाट संख्या 138, 122, 124 की उत्तरी सीमा से होते हुए आर्मिक बिन्दु “क 1” पर मिलती है।

क 7—क 1

अनुसूची “ख”

धर्मनी खंड

सोहागपुर श्रेणी

जिला—शहडोल (मध्य प्रदेश)

खनन अधिकार

क्रम सं.	ग्राम का नाम	पटवारी हूँका सं	तहसील	जिला	क्षेत्र हेक्टर में	टिप्पणियां
1.	खेरहा	93	सोहागपुर	शहडोल	189. 170	भाग
2.	कन्दोहा	93	सोहागपुर	शहडोल	154. 838	भाग
3.	धर्मनी कला	95	सोहागपुर	शहडोल	014. 752	भाग
4.	धर्मनी खुर्द	95	सोहागपुर	शहडोल	011. 765	भाग

युल—370. 525 हेक्टर (लगभग) या 915. 57 एकड़ (लगभग)

ग्राम खेरहा (भाग) में अर्जित किए जाने वाले प्लाट संख्यांक

205(भाग), 253 से 268, 316 से 326, 328 से 492, 493(भाग), 494 से 496, 501 से 503, 510 से 547, 548/1, 548/2, 548/3, 548/4, 548/5, 548/6, 548/7, 549 से 819, 820(भाग), 821 से 881, 882(भाग), 883(भाग) 884(भाग), 885, 886, 887, 888(भाग), 890(भाग), 891(भाग), 892 से 894, 895(भाग), 903(भाग), 904(भाग), 905(भाग), 1019(भाग), 1020(भाग), 1021(भाग), 1022(भाग), 1023, 1024(भाग), 1025(भाग), 1031(भाग), 1032 से 1044, 1045/1, 1045/2, 1045/3, 1046, से 1054, 1055/1, 1055/2, 1056 से 1066, 1067(भाग), 1068(भाग), 1069 से 1080 1081(भाग), 1082 से 1087, 1088(भाग), 1092(भाग), 1096(भाग), 345/1129 478/1130, 478/1131, 831/1132, 822/1133, 886/1134, 886/1135, 886/1136, 886/1137, 873/1138, 817/1141।

2. ग्राम कन्दोहा (भाग) में अर्जित किए जाने वाले प्लाट संख्यांक :

116 से 121, 122(भाग), 123, 139, 140, 151 से 154, 155(भाग), 156(भाग), 158(भाग), 162(भाग), 163(भाग), 164(भाग), 166(भाग), 167(भाग), 168(भाग), 169(भाग), 170 से 176, 177(भाग), 178(भाग), 179 से 194, 198 से 347, 348/1, 348/2(भाग), 349, 350, 351 (भाग), 355(भाग), 356(भाग), 373(भाग), 374(भाग), 375(भाग), 376, 377(भाग), 378, 379, 380, 381(भाग), 382(भाग), 387(भाग), 388/1, 388/3(भाग), 389, 391/3 (भाग), 391/4, 391/5, 391/6, 391/7, 391/8, 391/9, 391/12, 391/13, 391/14, 392 से 401, 402(भाग), 403(भाग), 173/410, 115/411(भाग), 348/412।

3 ग्राम धर्मनीकला (भाग) में अर्जित किए जाने वाले प्लाट संख्यांक :

1(भाग), 2, 3(भाग), 11(भाग), 106(भाग), 107(भाग), 131(भाग), 132 से 134, 135/1, 135/2, 136, 137(भाग), 138(भाग), 139(भाग)।

4. ग्राम धमनी खुर्द (भाग), में अंजित किए जाने वाले प्लाट संख्याएँ :

1 से 7, 8(भाग), 9(भाग), 10(भाग), 11(भाग), 12(भाग), 38(भाग), 40(भाग), 4/165।

सीमा वर्णन

क-क 1

रेखा ग्राम खेरहा और पिपरिया की सम्मिलित सीमा पर बिन्दु "क" से आरम्भ होती है और ग्राम खेरहा के प्लाट संख्या 820 से, प्लाट संख्या 317, 316, 323, 324, 326, 328, 268, 267, 266, 264, 258, 256, 253, 487, 492 की उत्तरी सीमा, प्लाट संख्या 493 से, प्लाट संख्या 496, 501, 503, 511, 510 की उत्तरी सीमा, प्लाट संख्या 205 से, ग्राम कन्दोहा में प्रवेश करती है, और प्लाट संख्या 411 से होती हुई बिन्दु "क 1" पर मिलती है।

क 1-क 2

रेखा सभी अधिकार क्षेत्र में वर्णन के अनुसार जाकर बिन्दु "क 2" पर मिलती है।

क 2-क 3

रेखा सभी अधिकार क्षेत्र में वर्णन के अनुसार जाकर बिन्दु "क 3" पर मिलती है।

क 3-क 4

रेखा सभी अधिकार क्षेत्र में वर्णन के अनुसार जाकर बिन्दु "क 4" पर मिलती है।

क 4-ख-ख 1

रेखा ग्राम कन्दोहा में प्लाट संख्या 151 की पश्चिमी सीमा, प्लाट संख्या 156, 155, 178, 158, 162, 163, 177, 164, 169, 168, 166, 167, 391/3 से, और बैमाहा नाले से, ग्राम धमनी खुर्द प्लाट संख्या 12 से होती हुई "ख 1" पर मिलती है।

ख 1-ग

रेखा ग्राम धमनी खुर्द के प्लाट संख्या 12, 11, 10, 11, 9, 38, 8, 38, 10 से, बैमाहा नाला से होती हुई बिन्दु "ग" पर मिलती है।

ग-घ

रेखा धमनीकला के प्लाट संख्या 136, 138, 139, 131, 107, 106 के मध्य से, ग्राम कन्दोहा में प्रवेश करती है, और प्लाट संख्या 402, 403, 388/3, 387, 381, 382, 377, 376, 375, 374, 373, 348/2, 351, 348/2, 355, 356 से, होकर ग्राम धमनीकला में प्रवेश करती है प्लाट संख्या 3, 11, 1 से होकर ग्राम खेरहा में प्रवेश करती है प्लाट संख्या 1096, 1092, 1081, 1088, 1068, 1067, 1019, 1020, 1021, 1022, 1025, 1024, 1031, 882, 885, 884, 890, 891, 895, 903, 904, 905, 820 से होकर जाती है और बिन्दु "घ" पर मिलती है।

घ-क

रेखा गरफा नाने के साथ जाती है जो कि खेरहा-पिपरिया ग्रामों की सम्मिलित सीमा भी है से होने द्वारा, आरम्भिक बिन्दु "क" पर मिलती है।

[फा. संग्रह-43015/12/2000-पी भार. भार्ष इल्य]

संजय बहादुर, उप सचिव

New Delhi, the 31st August, 2001

S.O. 188. Whereas by the notification of the Government of India in the Ministry of Coal, number S.O. 1762 dated the 21st July, 2000 issued under Sub-section (1) of Section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act) and published in Part-II, Section 3, Sub-Section (ii) of the Gazette of India dated the 5th August, 2000, the Central Government has given notice of its intention to prospect for coal in 959.922 hectares (approximately) or 2371.97 acres (approximately) of the lands in the locality specified in the Schedule annexed to that notifications :

And, whereas, the Central Government is satisfied that coal is obtainable in a part of the said lands;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of section 7 of the said Act, the Central Government hereby gives notice of its intention to acquire the following lands namely :

- The lands measuring 9.259 hectares (approximately) or 22.88 acres (approximately) described in Schedule 'A' appended hereto;
- The right to mine, quarry, bore, dig, and search for, win, work and carry away minerals in the lands measuring 370.525 hectares (approximately) or 915.57 acres (approximately) described in the Schedule 'B' appended hereto;

Note 1—The plan bearing No. SECL/BSP/GM(Plg)/Land/247 dated the 10th April 2001 of the area covered by this notification may be inspected in the office of the Collector, Shahdol (Madhya Pradesh) or in the Office of the Coal Controller, 1, Council House Street, Calcutta 700 001 or in the Office of the South Eastern Coalfields, Limited (Revenue Section) Seepat Road, Bilaspur-495 006 (Chhattisgarh).

Note 2—Attention is hereby invited to the provisions of section 8 of the said Act, which provides as follows :—
Objection to Acquisition.

“8(1) Any person interested in any land in respect of which a notification under section 7 has been issued may, within thirty days of the issue of the notification, object to the acquisition of the whole or any part of the land or of any rights in or over such land.

Explanation : It shall not be an objection within the meaning of this section for any person to say that he himself desires to undertake mining operations in the land for the production of coal and that such operations should not be undertaken by the Central Government or by any other person.

(2) Every objection under Sub-section (1) shall be made to the competent authority in writing, and the competent authority shall give the objector an opportunity of being heard either in person or by a legal practitioner and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either makes a report in respect of the land which has been notified under Sub-section (1) of section 7 or of rights in or over such land, or makes different reports in respect of different parcels of such land or of rights in or over such land to the Central Government, containing his recommendation on the objections, together with the record of the proceedings held by him, for the decision of that Government.

(3) For the purpose of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land or any rights in or over such land were acquired under this Act.”

Note : 3 The Coal Controller, 1, Council House Street, Calcutta-700 001 has been appointed by the Central Government, as the competent authority under section 3 of the said Act, vide notification under S.O. 905, dated the 20th March, 1987, published in Part-II, Section-3, Sub-Section (ii) of the Gazette of India, dated the 4th April, 1987 at pages 1397 to 1400.

SCHEDULE 'A'

Damni Block

Sohagpur Area

District Shaddol (Madhya Pradesh)

All Rights

Sl. No.	Name of Village	Patwari Halka Number	Tahsil	District	Area in hectares	Remarks
1.	Kandoha	93	Sohagpur	Shahdol	9.259	Part

TOTAL : 9.259 Hectares (Approximately OR 22.88 Acres (Approximately)

1. Plot numbers to be acquired in village Kandoha (Part)

122 (Part), 124, 134 (Part), 135 (Part), 136 (Part), 137, 138, 141, 142, 149, 150, 195 to 197

Boundary Description.

A1—A2 Line starts from point A1 in village Kandoha and passes along Western boundary of plot number 124, and meets at point “A2”.

A2—A3 Line passes southern boundary of plot number 124, through plot number 122, Southern boundary of plot numbers 138, 137, 141, 197, 196, 195 and meets at point “A3”.

A3—A4 Line passes along the Eastern boundary of plot numbers 195, 150 and meets at point “A4”.

A4—A5 Line passes along the Northern boundary of plot numbers 150, 149, 142, Eastern boundary of plot number 134 and meets at point “A5”.

A5—A6 Line passes through plot numbers 134, 135, 136, then along the Western boundary.

A7—A1 of plot numbers 136, 137, Northern boundary of plot numbers 138, 122, 124 and meets at the starting point “A1”.

SCHEDULE 'B'

Damni Block

Sohagpur Area

District: Shahdol (Madhya Pradesh)

Mining Rights.

Sl. No.	Name of Village	Patwari Halka Number	Tahsil	District	Area in Hectares	Remarks
1.	Khairaha	93	Sohagpur	Shahdol	189.170	Part
2.	Kandoha	93	Sohagpur	Shahdol	154.838	Part
3.	Dhamnikala	95	Sohagpur	Shahdol	14.752	Part
4.	Dhamnikhurd	95	Sohagpur	Shahdol	11.765	Part

TOTAL : 370.525 Hectares (Approximately) OR 915.57 Acres (Approximately)

1. Plot numbers to be acquired in village Khairaha (Part) :

205 (Part), 253 to 268, 316 to 326, 328 to 492, 493 (Part), 494 to 496, 501 to 503, 510 to 547, 548/1, 548/2, 548/3, 548/4, 548/5, 548/6, 548/7, 549 to 819, 820 (Part), 821 to 881, 882 (Part), 883 (Part), 884 (Part), 885, 886, 887, 888 (Part), 890 (Part), 891 (Part), 892 to 894, 895 (Part), 903 (Part), 904 (Part), 905 (Part), 1019 (Part), 1020 (Part), 1021 (Part), 1022 (Part), 1023, 1024 (Part), 1025 (Part), 1031 (Part), 1032 to 1044, 1045/1, 1045/2, 1045/3, 1046 to 1054, 1055/1, 1055/2, 1056 to 1058, 1057 (Part), 1068 (Part), 1059 to 1080, 1081 (Part), 1082 to 1087, 1088 (Part), 1092 (Part), 1096 (Part), 345/1129, 478/1130, 478/1131, 831/1132, 822/1133, 886/1134, 886/1135, 886/1136, 886/1137, 873/1138, 817/1141.

2. Plot numbers to be acquired in village Kandoha (Part) :

116 to 121, 122 (Part), 123, 139, 140, 151 to 154, 155 (Part), 156 (Part), 158 (Part), 162 (Part), 163 (Part), 164 (Part), 166 (Part), 167 (Part), 168 (Part), 169 (Part), 170 to 176, 177 (Part), 178 (Part), 179 to 194, 198 to 347, 348/1, 348/2 (Part), 349, 350, 351 (Part), 355 (Part), 356 (Part), 373 (Part), 374 (Part), 375 (Part), 376, 377 (Part), 378, 379, 380, 381 (Part), 382 (Part), 387 (Part), 388/1, 388/3 (Part), 389, 391/3 (Part), 391/4, 391/5, 391/6, 391/7, 391/8, 391/9, 391/12, 391/13, 391/14, 392 to 401, 402 (Part), 403 (Part), 173/410, 115/411 (Part), 348/412.

3. Plot Numbers to be acquired in Dhamni Kala (Part) :

1 (Part), 2, 3 (Part), 11 (Part), 106 (Part), 107 (Part), 131 (Part), 132 to 134, 135/1, 135/2, 136, 137 (Part), 138 (Part), 139 (Part).

4. Plot numbers to be acquired in Village Dhamni Khurd (Part) :

1 to 7, 8 (Part), 9 (Part), 10 (Part), 11 (Part), 12 (Part), 38 (Part), 40 (Part), 4/165.

Boundary Description.

A—A1	Line starts from point 'A' on the common boundary of villages Khairaha and Pipariya and passes in village Kahiraha through plot number 820, then Northern boundary of plot numbers, 317, 316, 323, 324, 326, 328, 268, 267, 266, 264, 258, 256, 253, 487, 492, through plot number 493, Northern boundary of plot numbers 496, 501, 503, 511, 510, through plot number 205, then enter in village Kandoha and passes through plot number 411 and meets at point "A1".
A1—A2	As described in all rights area and meet at point "A2".
A2—A3	As described in all Right Area and meets at point "A3".
A3—A4	As described in All Right area and meets at point "A4".
A4—B—B1	Line passed in village Kndoha along the Western boundary of plot number 151, then through plot numbers 156, 155, 178, 158, 162, 163, 177, 164, 169, 168, 166, 167, 391/3, through Baisaha Nala, then Northern boundary of plot number 12 of village Dhamni Khurd and meets at point "B1".
B1—C	Line passes in village Dhamni Kburd and passes through plot numbers 12, 11, 10, 11, 10, 9, 38, 8, 38, 40 then passes through Baisaha Nala and meets at point "C".
C —D	Line passes in village Dhamni Kala through plot numbers 137, 138, 139, 131, 107, 106, enter in village Kandoha and passes through plot numbers 402, 403, 388/3, 387, 381, 377, 376,

375, 374, 373, 348/2, 351, 348/2, 355, 356, then enter in village Dhamni Kala and passes through plot numbers, 3, 11, 1, enter in village Khairaha and passes through plot numbers 1096, 1092, 1081, 108, 1068, 1067, 1019, 1020, 1021, 1022, 1025, 1024, 1031, 882, 885, 884, 888, 890, 891, 895, 903, 904, 905, 820 and meets at point "D".

D—A

Line passes along the Sarpha Nala which is also common boundary of village Khairaha-Pipariya and meets at the starting point "A".

[No. 43015/12/2000-PRIW]

SANJAY BAHADUR, Dy. Secy.

नई दिल्ली, 31 अगस्त, 2001

2289.—केन्द्रीय सरकार को यह प्रतीत होता है कि इसमें उपायद्वयम् सूची में उल्लिखित भूमि में कोयला अधिकारात होने की संभावना है।

अतः अब, केन्द्रीय सरकार कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसमें इसके पश्चात उक्त अधिनियम बहा गया है) की धारा 4 की उपधारा (1) द्वारा प्रदत्त अधिकारोंका प्रयोग करते हुए उक्त क्षेत्र में कोयले का पूर्वेक्षण करने के अपने आग्रह की सूचना देनी है;

इस अधिसूचना के अन्तर्गत आने वाले खांक सं. मी-1(ई) III/जी आर/652-1298, नारीख 12 दिसम्बर, 1998 का निरीक्षण द्वारा कोलफील्ड्स लिमिटेड (राजस्व अनुभाग), कोयला ईंस्टेट, मिलिल लाईन्स, नागपूर-440 001 (महाराष्ट्र) के कार्यालय में या कलेक्टर छिंदवाड़ा (मध्य प्रदेश) के कार्यालय में या कोयला सियंक, 1, काउंसिल हाउस स्ट्रीट, कलकत्ता के कार्यालय में किया जा सकता है।

इस अधिसूचना के अन्तर्गत आने वाले भूमि में हितवड़ मधी त्यक्ति उक्त अधिनियम की धारा 13 की उपधारा (7) में निर्दिष्ट सभी नक्शों, चाटों, और अस्यदस्तावेजोंको इस अधिसूचना के प्रकाशनकी तारीख में सड़वे दित के भोनर, भारसाधक अधिकारी/विभाग-धर्षक (राजस्व), द्वारा कोलफील्ड्स लिमिटेड, कोल ईंस्टेट, मिलिल लाईन्स, नागपूर-440 001 (महाराष्ट्र) को भेज सकते हैं।

अनुसूची

न्यू धनकमाखंड

पंच क्षेत्र

जिला—छिंदवाड़ा (मध्य प्रदेश)

(रेखांक सं. मी.-I(ई) III/जी आर/652-1298 नारीख 12 दिसम्बर, 1998)

क्रम. ग्राम का नाम सं.	वग का नाम	पटवारी संकाल सं.	कंदोमस्त सं.	कक्ष सं.
1. पायली	—	18	327	—
2. बेहरिया	—	43	39	—
3. बांकी	—	43	196	—
4. सेजवाडा खूद्र	—	27	57	—
5. धीघावानी	—	33	23	—
6. —	मरकारी संग्राधम वन परगमिया शुंखला	—	—	737 पी
7. —	—तदैक—	—	—	738 पी
8. —	—तदैव—	—	—	739 पी
9. —	—तदैव—	—	—	736 पी

खंड सं.	तहसील	ज़िला	क्षेत्र हेक्टेयर में	टिकटी
—	परासिया	छिन्दवाड़ा	56.000	भाग
—	अमरवाडा	छिन्दवाड़ा	174.238	भाग
—	अमरवाडा	छिन्दवाड़ा	101.600	भाग
—	अमरांडा	छिन्दवाड़ा	78.032	भाग
—	अमरवाडा	छिन्दवाड़ा	1.000	भाग
41	परासिया	छिन्दवाड़ा	50.000	भाग
41	परासिया	छिन्दवाड़ा	81.343	पूरा
41	परासिया	छिन्दवाड़ा	228.000	पूरा
41	परासिया	छिन्दवाड़ा	7.000	भाग

कुल क्षेत्र — 777.213 हेक्टेयर
(लगभग)

या

1920.57 एकड़ (भगवान)

सीमा कर्त्तव्य :

क—ख :

रेखा "क" बिन्दु से आरंभ होती है और ग्राम बेहरिया और सरकारी वन कक्ष सं. 740 की सम्मिलित सीमा रेखा के माथ-माथ होते हुए जाती है और बिन्दु "ख" पर मिलती है।

ख—ग :

रेखा, सरकारी वन कक्ष सं. 739 एवं सरकारी वन कक्ष सं. 740 तथा ग्राम जमुनिया की सम्मिलित सीमा रेखा से होते हुए जाती है फिर ग्राम पायनी और जमुनिया की सम्मिलित सीमा रेखा से जाती है और बिन्दु "ग" पर मिलती है।

ग—घ—ड :

रेखा, ग्राम पायनी से होकर जाती है फिर सरकारी वन कक्ष सं. 736 एवं सरकारी वन कक्ष सं. 737 से होते हुए बिन्दु "ड" पर मिलती है।

ड—च—छ :

रेखा ग्राम दीघावानी से होकर ग्राम सेजवाडा खुंड में से आगे बढ़ते हुए बिन्दु "छ" पर मिलती है।

छ—ज—क :

रेखा ग्राम बांकी से होकर, ग्राम बेहरिया में से आगे बढ़ते हुए, प्रारंभिक बिन्दु "क" पर मिलती है।

[म. 43015/9/2001-पी आर आई डिप्यु]
संजय बहादुर, उप सचिव

New Delhi, the 31st August, 2001

S.O. 2289.—Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the schedule hereto annexed;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) hereinafter referred to as the said Act, the Central Government hereby gives notice of its intention to prospect for coal therein;

The plan bearing No. C-I(E)III/GR/652-1298, dated the 12th December, 1998, of the area covered by this notification can be inspected in the Office of the Western Coalfields Limited (Revenue Department), Coal Estate, Civil Lines, Nagpur-400 001 (Maharashtra) or in the Office of the Collector, Chhindwara (Madhya Pradesh) or in the Office of the Coal Controller, 1, Council House Street, Kolkata.

All persons interested in the lands covered by this notification shall deliver all maps, charts and other documents referred to in sub-section (7) of section 13 of the said Act to the Officer-in-Charge/Head of the Department (Revenue), Western Coalfields Limited, Coal Estate, Civil Lines, Nagpur-440 001 (Maharashtra) within ninety days from the date of publication of this notification.

SCHEDULE

New Dhankasa Block

Pench Area

District Chhindwara (Madhya Pradesh)

(Plan No. C-I(E)III/GR/652-1298 dated the 12th December, 1998).

Sl. No.	Name of Village	Name of forest	Patwari Circle Num- ber	Settle- ment Num- ber	Com- part- ment Num- ber	Block Num- ber	Tahsil	District	Area in hectares	Re- marks
1.	Paylee	—	18	327	—	—	Parasia	Chhindwara	56,000	Part
2.	Beheria	—	43	39	—	—	Amarwara	Chhindwara	174.238	Part
3.	Bankee	—	43	196	—	—	Amarwara	Chhindwara	101.600	Part
4.	Sejwara Khurd	—	27	57	—	—	Amarwara	Chhindwara	78.032	Part
5.	Dighawani	—	33	23	—	—	Amarwara	Chhindwara	1,000	Part
6.	—	Govt. Forest Protected Forest (Parasia Range).	—	—	737 P	41	Parasia	Chhindwara	50,000	Part
7.	—	Govt. Forest Protected Forest (Parasia Range).	—	—	738 P	41	Parasia	Chhindwara	81,343	Full
8.	—	Govt. Forest Protected Forest (Parasia Range).	—	—	739 P	41	Parasia	Chhindwara	228,000	Full
9.	—	Govt. Forest Protected Forest (Parasia Range).			736 P	41	Parasia	Chhindwara	7,000	Part

Total area : 777.213 hectares

(approximately)

or

1920.57 acres

(approximately)

Boundary description: -

A — B Line starts from point 'A' and passes along the common village boundary of village Beheria and Government Forest Compartment Number 740 and meets at point 'B'.

B - C	Line passes along the common boundary of Government Forest Compartment Number 739 and Government Forest Compartment Number 740 and village Jamunia then passes along the common boundary of villages Paylee and Jamunia and meets at point 'C'.
C — D — E	Line passes through village Paylee, then proceeds through Government Forest Compartment Number 736 and Government Forest Compartment Number 737 and meets at point 'E'.
E — F — G	Line passes through village Dighawani then proceeds through village Sejwara Khurd and meets at point 'G'.
G — H — A	Line passes through village Bankec then proceeds through village Beheria and meets at starting point 'A'.

[No. 43015/9/2001-PRIW]

SANJAY BAHADUR, Dy. Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य विभाग)

आदेश

नई दिल्ली, 16 अगस्त, 2001

का.ग्रा. 2290.—युनिवर्सिटी ऑफ वेल्स द्वारा प्रदत्त आयु-विज्ञान अर्हता एम.बी.बी.मी.एच. भारतीय आयु-विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) के प्रयोजन के लिए उक्त अधिनियम की धारा 14 के अधीन एक मान्यता प्राप्त अर्हता है;

और डा. बूटलिन सिथिया रूथ, जिनके पास उक्त अर्हता है, पूर्ण कार्य के प्रयोजन के लिए और न कि निजी लाभ के लिए कुष्ठ मिशन अस्पताल पुर्णिया (पश्चिमी बंगाल) से सलग्न है;

अतः अब उक्त अधिनियम की धारा 14 की उपधारा (1) के खण्ड (ग) के अनुसरण में केन्द्र सरकार एवं द्वारा यह विनियोगित करती है कि भारत में डा. बूटलिन सिथिया रूथ द्वारा चिकित्सा व्यवसाय की अवधि:—

- (क) इस आदेश के जारी होने की तारीख से छह महीने की अवधि तक; अथवा
- (ख) उस अवधि तक जिस के दौरान डा. बूटलिन सिथिया रूथ कुष्ठ मिशन अस्पताल, पुर्णिया (पश्चिमी बंगाल) से सलग्न रहते हैं; जो भी लघूतर हो, परि- सीमित होगी।

[मं. वी. 11016/1/2001-एम.ई. (नोटि-1)]

पी. जी. कलाप्रण, गतर मंचिव

MINISTRY OF HEALTH & FAMILY WELFARE

(Department of Health)

ORDER

New Delhi, the 16th August, 2001

S.O. 2290.—WHEREAS medical qualification MBBCh. granted by University of Wales is a recognised medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956) under Section 14 of the said Act;

AND WHEREAS Dr. Butlin Cynthia Ruth who possess the said qualification is attached to Leprosy Mission Hospital, Purulia (West Bengal) for the purpose of charitable work and not for personal gain;

Now therefore, in pursuance of clause (c) of sub-section (1) of the Section 14 of the said Act, the Central Government hereby specifies that the period of practice of medicine by Dr. Butlin Cynthia Ruth in India shall be limited to :

- (a) a period of six months from the date of issue of this order, or
- (b) the period during which Dr. Butlin Cynthia Ruth is attached to Leprosy Mission Hospital, Purulia (West Bengal), whichever is shorter.

[No. V-11016/1/2001-ME (Policy-1)]

P. G. KALADHARAN, Under Secy.

अनुशेष

नई दिल्ली, 3 अगस्त, 2001

का.ग्रा. 2291.—इस मंत्रालय की दिनांक 27 अक्टूबर, 2000 की अधिसूचना संख्या वी. 11012/2/98-एम.ई. (यू.जी.) जो दिनांक 25 नवम्बर, 2000 के भारत के राजपत्र के भाग II खण्ड 3(ii) (2000 का का.ग्रा.

2542) में प्रकाशित हुई थी, के अन्त में निम्नलिखित पाद टिप्पणी जोड़ी जायेगी :—

“पाद—टिप्पणी : मुख्य अधिसूचना भारत के राजपत्र में दिनांक 14 जुलाई, 1961 के का आ. संख्या 1699 के तहत प्रकाशित की गई थी।”

[सं. वी. 11012/2/98—एम.ई. (यू.जी.)]
पी. जी. कलाधरन, अवार सचिव

ADDENDUM

New Delhi, the 3rd August, 2001

S.O. 2291.—In this Ministry's notification No. V-11012/2/98-ME (UG) dated 27th October, 2000 published in the Gazette of India Part II, Section 3(ii) dated 25th November, 2000 (S.O. 2542 of 2000) the following footnote shall be added in the end :—

‘Footnote : The Principal notification was published in the Gazette of India vide notification No. S.O. 1699 dated the 14th July, 1961.’

[No. V-11012/2/98-ME (UG)]

R. G. KALADHARAN, Under Secy.

पोत परिवहन मंत्रालय

(नौवहन पक्ष)

नई दिल्ली, 30 अगस्त, 2001

का.प्रा. 2292—केन्द्र सरकार, राष्ट्रीय नौवहन बोर्ड नियम, 1960 के नियम 3 और 4(1) के माथ पठित वाणिज्य पोत परिवहन अधिनियम, 1958 (1958 का 44) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए दो वर्ष की अवधि के लिए तत्काल प्रभाव से गप्टीय नौवहन बोर्ड स्थापित करती है, जिसमें निम्ननिवित मदस्य होंगे तथा श्री वी.के. खन्ना को उक्त बोर्ड का अध्यक्ष नामित करती है, अर्थात् :—

1. श्री वी.के. खन्ना अध्यक्ष
2. श्री प्रसन्न ग्राचार्य, संसद मवस्य (लोक सभा)
3. ए.उ. जॉर्ज इडन, ममव मदस्य (लोक सभा)

4. श्री पी.एस. गाधवी, संसद मदस्य (लोक सभा)
5. श्री विठ्ठल पांडा रे, संसद मदस्य (लोक सभा)
6. श्री एडवर्ड फेलोरे, संसद मदस्य (राज्य सभा)
7. श्री अनन्तरे देवशंकर देवे, संसद मदस्य (राज्य सभा)
8. संयुक्त सचिव (नौवहन), पोत परिवहन मंत्रालय नई दिल्ली केन्द्र सरकार के प्रतिनिधि
9. अपर सचिव एवं विस सलाहकार, भारत सरकार, पोत परिवहन मंत्रालय, नई दिल्ली —वही—
10. श्री डी.के. मित्तल, संयुक्त सचिव, वाणिज्य मंत्रालय, नई दिल्ली —वही—
11. बाड़से एडमिरल रमन पुरी, एवीएसएम, बीएम एम, डिस्ट्री चीफ आफ नेथल स्टाफ, भारतीय नौसेना, नई दिल्ली —वही—
12. नौवहन महानिदेशक, मुख्य —वही—
13. अध्यक्ष, इंडियन नेशनल शिपआर्नम एसोसिएशन, मुख्य —पोत मालिको के प्रतिनिधि
14. श्री के. चिदाम्बरम, अध्यक्ष, मै. चिदाम्बरम इस्टीच्यूट आफ मैरीटाइम टैक्सोलॉजी, वेन्ने —वही—
15. श्री.एस.एन श्रीकान्त, निदेशक, मै. हॉवर्स लाइन्स प्रा. लि., चेन्नै —वही—
16. महासचिव, नेशनल यूनियन आफ सीकेयरजे आफ इंडिया, मुख्य नाविको के प्रतिनिधि
17. श्री एस.एस.खान, महासचिव, मेरी-टाइम यूनियन आफ इंडिया, मुख्य —वही—
18. श्री कगजी लाल, महासचिव, फारवर्ड सीमेन यूनियन आफ इंडिया, कोलकाता —वही—
19. श्री मोहन राज, जिप बिल्डिंग एसोशिएशन आफ इंडिया 'अन्य द्विती' के प्रतिनिधि

20. कैप्टन पी. खी. के भोहन, सिक्किम बाबाद	“अन्य हितों” के प्रतिनिधि
21. श्री एस के शाही, शाही प्रिमिल लि. मुम्बई	—वही—
22. डा. बी के मित्तल, 48-बी, विजय मंडल एनक्सेप्ट, नई दिल्ली	—वही—
[फा. सं. एम.एस-1801.1/1/2001-एस.एल] मुश्ती राम, अवार मन्त्री	

MINISTRY OF SHIPPING
(Shipping Wing)

New Delhi, the 30th August, 2001

S. O. 2292.—In exercise of the powers conferred by Section 4 of the Merchant Shipping Act, 1958 (44 of 1958) read with Rule 3 and 4(1) of the National Shipping Board Rules, 1960, the Central Government hereby establishes a National Shipping Board, for a period of two years with immediate effect consisting of the following Members and nominates Shri V. K. Khanna to be the Chairman of the said Board, namely :—

1. Shri V. K. Khanna	Chairman
2. Shri Prasanna Acharya, Member of Parliament, (Lok Sabha).	
3. Adv. George Eden, Member of Parliament (Lok Sabha).	
4. Shri P. S. Gadhavi, Member of Parliament (Lok Sabha).	
5. Shri Bishnu Pada Ray, Member of Parliament (Lok Sabha).	
6. Shri Eduardo Falerio, Member of Parliament, (Rajya Sabha).	
7. Shri Anantray Devshanker Dave, Member of Parliament (Rajya Sabha).	
8. Joint Secretary (Shipping)/M/o Shipping, New Delhi.	Represen- tative of Central Government

9. Additional Secretary & Financial Representative Adviser to the Government of Central India, Ministry of Shipping, Government New Delhi.
10. Shri D. K. Mittal, Joint Secretary, Ministry of Commerce, New Delhi. -do-
11. Vice Admiral Ramam Puri, AVSM, VSM, Deputy Chief of Naval Staff, Indian Navy, New Delhi. -do-
12. Director General of Shipping, Mumbai. -do-
13. President, Indian National Shipowner's Association, Mumbai. Representative of Shipowners
14. Shri K. Chidambaram, Chairman, M/s. Chidambaram Institute of Maritime Technology, Chennai. -do-
15. Shri S. N. Srikanth, Director, M/s. Hauers Lines Pvt. Ltd. Chennai. -do-
16. General Secretary, National Union of Seafarers of India, Mumbai. Representative of Seamen.
17. Shri S. S. Khan, General Secretary, Maritime Union of India, Mumbai. -do-
18. Shri Kanji Lal, General Secretary, Forward Seamen Union of India, Kolkata. -do-
19. Shri Mohan Rao, Ship-building Association of India. Representative of “other interests”
20. Capt. P. V. K. Mohan, Secundrabad. -do-
21. Shri S. K. Shahi, Shahi Shipping Ltd., Mumbai. -do-

22. Dr. B. K. Mittal, 48-B, Vijay Representative
Mandal Enclave, New Delhi, of other
interest."

[File No. SS-18011/1/2001-SL]

MUNSHI RAM, Under Secy.

डाक विभाग

मुख्य पोस्टमास्टर जनरल, कार्यालय
केरल परिमंडल

तिरुवनंतपुरम, 28 अगस्त, 2001

कान्ना. 2293.—केन्द्रीय सरकार की राय में श्री आर.
सन्धराजन, डाकिया, तिरुवनंतपुरम जी पी श्रो मे संबंधित विभा-
गीय जाच मे गवाहो के रूप में,

- 1 श्री विजय बाबू प्रोप्राइटर, विजो न्लास्टिक्स, ओवर-
लाइंड तिरुवनंतपुरम-695 001
- 2 श्रीमती डी. सेतुकुट्टी अम्मा, टी.सी. 25/3525,
उपलम रोड, तिरुवनंतपुरम-695 001
- 3 श्री डी दोमोदरन, नायर, सेवानिवृत उच्च प्रबरण
कोटि डाक महायक, तिरुवनंतपुरम जी पी श्रो, जो
"पर्ण शाला" टी.सी. 15/414, आलनग रोड, तिरुवनं
पुरम-695 010 मे रहते, को बुलाना आवश्यक है।

अब इसलिए विभागीय जांच (गवाहो के उपस्थिति
एवं दस्तावेजो का प्रस्तुति प्रबत्तन) अधिनियम 1972 (1972
का 18) की धारा 4 की उपधारा (1) द्वारा प्रदत
शक्तियो का प्रायोजन करने हुए, मुख्य पोस्टमास्टर जनरल,
केरल परिमंडल, तिरुवनंतपुरम-695 033, भारत सरकार,
संचार संवालय (डाक व तार बोर्ड), के दिनांक 18 मई,
1976 की अधिसूचना स 201/61/75 अनु II के अनुसार
उपयुक्त अधिनियम की धारा 4 की उपधारा (2) मे उल्लिखित
एक प्राधिकारी होने के कारण श्री एम. मोहनदास, अधीक्षक
डाकघर, लक्ष्मी मंडल, कवरत्ती को श्री आर. सन्धराजन,
डाकिया, तिरुवनंतपुरम जी पी श्रो, तिरुवनंतपुरम (उत्तर)
डाक मंडल के विरुद्ध केन्द्रीय मिशन में (बर्गिकरण,
नियन्त्रण एवं अपील) नियम, 1965 के नियम 14 के अधीन
जांच के संबंध मे ऊक्त अधिनियम की धारा 5 मे उल्लिखित
शक्ति का प्रायोजन करने के लिए जांच प्राधिकारी के रूप
मे प्राधिकृत करती है।

[सं. विज/1-1/कोर/2000]

एस.एम. वारियर, सदृश्यक निदिगक (पी.एं.जी.ए.)

DEPARTMENT OF POSTS

OFFICE OF THE CHIEF POSTMASTER
GENERAL

(Kerala Circle)

Thiruvananthapuram, the 28th August, 2001

S. O. 2293.—Whereas the Central Govt. is of
opinion that for the purpose of the Departmental
Inquiry relating to Shri R. Sathyarajan, Postman,
Thiruvananthapuram GPO, it is necessary to
summon as witnesses,

1. Shri Vijay Baba, Proprietor, Vijo Plastics,
Over Bridge, Thiruvananthapuram-695001.

2. Smt. D. Sethukutty Amma, T. C 25/3525,
Uppalam Road, Thiruvananthapuram-695001.

3. Shri D. Damodaran Nair, Rtd. H G
Postal Assistant' Thiruvananthapuram GPO
residing at "Parnasala", T. C. 15/414' Althra Road,
Thiruvananthapuram-695001.

Now therefore, in exercise of the powers
conferred by sub-section (1) of Section 4 of the
Departmental Inquiries (Enforcement of Attendance
of witnesses and Production of Documents
Act, 1972 (18 of 1972), the Chief Postmaster
General, Kerala Circle, Thiruvananthapuram-
695003 being an authority specified under Sub-
section (2) of section 4 of the said act vide
Government of India, Ministry of Communications
(P & T Board), Notification No. 201/61/75-Disc. II
dated the 18th May, 1976 hereby authorises
Shri M. Mohandas, Superintendent of Post Offices,
Lakshadweep Division, Kavaratti as the
Inquiry Authority to exercise the powers specified
in Section 5 of the said Act in relation to the
Inquiry under Rule 14 of the Central Civil Services
(Classification Control and Appeal) Rules, 1965
against Shri R. Sathyarajan, Postman, Thiru-
vananthapuram GPO, Thiruvananthapuram
(North) Postal Division.

[No. Vig/1-1/Corr/2000]

S. M. WARRIER, Asst. Director (P & GA)

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 27 अगस्त, 2001

का. आ. 2294.— केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 173 तारीख 19 जनवरी, 2001 द्वारा इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा बिहार राज्य में बरौनी से पटना तक पेट्रोलियम उत्पादों के परिवहन के लिए विद्यमान बरौनी-कानपुर उत्पाद पाइपलाइन के साथ-साथ समानान्तर उत्पाद पाइपलाइन बिछाने के प्रयोजनार्थ उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार के अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 12 फरवरी, 2001 को उपलब्ध करा दी गयी थी;

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार का उक्त रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाए;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार अर्जित करने की घोषणा करती है;

और केन्द्रीय सरकार, उक्त धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए आगे यह और निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाय सभी विल्लंगमों से मुक्त, इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

अंचल - फतुहा	जिला - पटना	राज्य - बिहार		
		खसरा नं०	क्षेत्र	वर्गमीटर
1	2	3	4	5
गाढोघक	232	0	0	88
	233	0	4	46
	234	0	5	45
	231	0	7	67
	229	0	4	10
	228	0	14	75
	227	0	4	66
	222	0	2	13
	221	0	1	36
	220	0	1	39
	223	0	6	31
	219	0	3	85
	218	0	0	51
	61	0	3	54
	64	0	3	60
	137	0	3	46
	136	0	8	35
	135	0	5	76
	132	0	4	16
	131	0	0	40
	70	0	1	85
	71	0	9	30
	72	0	0	40
	117	0	1	94
	118	0	7	80
	119	0	3	0
	116	0	7	26
	115	0	0	40
गोविन्दपुर कुरथा	262	0	8	56
	260	0	17	82

[फा. सं. 31015/51/2000-ओ.आर-1]

एस. चन्द्रशेखर, अवर सचिव

Ministry of Petroleum and Natural Gas

New Delhi, the 27th August, 2001

S. O. 2294.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 173 dated the 19th January, 2001, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in land specified in the Schedule appended to that notification for the purpose of laying a parallel product pipeline for the transportation of petroleum products from Barauni to Patna along the existing Barauni – Kanpur Product Pipeline in the State of Bihar by the Indian Oil Corporation Limited;

And whereas, the copies of the said gazette notification were made available to the public on 12th February, 2001;

And whereas, the competent authority in pursuance of sub-section (1) of section 6 of the said Act, has submitted his report to the Central Government;

And whereas, the Central Government, after considering the said report, is satisfied that the right of user in land specified in the Schedule appended to this notification should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification are hereby acquired;

And further, in exercise of the powers conferred by sub-section (4) of the said section, the Central Government hereby directs that the right of user in the said land shall instead of vesting in the Central Government, vest from the date of publication of this declaration, in the Indian Oil Corporation Limited free from all encumbrances.

Schedule

Anchal - FATUHA	District – PATNA			State - BIHAR	
	Name of Village	Khasra No./ Plot. No			
		Hectare	Are		
1	2	3	4	5	
GARHOCHAK	232	0	0	88	
	233	0	4	46	
	234	0	5	45	
	231	0	7	67	
	229	0	4	10	
	228	0	14	75	
	227	0	4	66	
	222	0	2	13	
	221	0	1	36	
	220	0	1	39	
	223	0	6	31	
	219	0	3	85	
	218	0	0	51	
	61	0	3	54	
	64	0	3	60	
	137	0	3	46	
	136	0	8	35	
	135	0	5	76	
	132	0	4	16	
	131	0	0	40	
	70	0	1	85	
	71	0	9	30	
	72	0	0	40	
	117	0	1	94	
	118	0	7	80	
	119	0	3	0	
	116	0	7	26	
	115	0	0	40	
GOBINDPUR KURTHA	262	0	8	56	
	260	0	17	82	

[No. R-31015/51/2000 OR-I]
S. CHANDRASEKHAR, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 28 अगस्त, 2001

का. आ. 2295.— केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 177 तारीख 30 जनवरी, 2001 द्वारा इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा बिहार राज्य में बरौनी-कानपुर उत्पाद पाइपलाइन के साथ-साथ बरौनी से पटना तक पेट्रोलियम उत्पादों के परिवहन के लिए समानान्तर उत्पाद पाइपलाइन बिछाने के प्रयोजनार्थ उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार के अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियों जनता को तारीख 12 फरवरी, 2001 को उपलब्ध करा दी गई थी;

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार का उक्त रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाना चाहिए;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार अर्जित करने की घोषणा करती है;

यह और कि केन्द्रीय सरकार, उक्त धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाय सभी विलंगमों से मुक्त, इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

अंचल गाँव का नाम	जिला - पटना	राज्य विहार		
		खसरा नं	क्षेत्र	
			हेक्टेयर	आर
1	2	3	4	5
पचमहला		201	0	7
		205	0	27
		210	0	2
		220	0	2
		219	0	3
		218	0	3
		213	0	2
		214	0	1
		215	0	0
		81	0	3
		80	0	3
		79	0	0
		76	0	3
		74	0	1
		73	0	9
		75	0	2
मेकरा		455	0	7
		454	0	9
		452	0	6
		451	0	14
		423	0	7
		422	0	7
		421	0	0
		414	0	4
		2273	0	3
		2274	0	3
		486	0	1
		462	0	2
		461	0	0
		458	0	1
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	1309	0	12	75
	1310	0	0	40
दरियापुर	586	0	1	36

[क्र. सं. 31015/53/2000-ओ.आर-I]
एस. चन्द्रशेखर, अवार सचिव

Ministry of Petroleum and Natural Gas

New Delhi, the 28th August, 2001

S. O. 2295.— Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 177 dated the 30th January, 2001, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in land specified in the Schedule appended to that notification for the purpose of laying a parallel product pipeline for the transportation of petroleum products from Barauni to Patna along the existing Barauni – Kanpur Product Pipeline in the State of Bihar by the Indian Oil Corporation Limited;

And whereas, the copies of the said gazette notification were made available to the public on 12th February, 2001;

And whereas, the competent authority in pursuance of sub-section (1) of section 6 of the said Act, has submitted his report to the Central Government;

And whereas, the Central Government, after considering the said report, is satisfied that the right of user in land specified in the Schedule appended to this notification should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in land specified in the Schedule appended to this notification are hereby acquired;

And further, in exercise of the powers conferred by sub-section (4) of the said section, the Central Government hereby directs that the right of user in the said land shall instead of vesting in the Central Government, vest from the date of publication of this declaration, in the Indian Oil Corporation Limited free from all encumbrances.

Schedule

Anchal - MOKAMA		District - PATNA		State - BIHAR	
Name of Village	Plot.No	Area			
		Hectare	Are	Centiare	
1	2	3	4	5	
PACHMAHLA	201	0	7	48	
	205	0	27	55	
	210	0	2	19	
	220	0	2	42	
	219	0	3	30	
	218	0	3	12	
	213	0	2	8	
	214	0	1	48	
	215	0	0	40	
	81	0	3	38	
	80	0	3	51	
	79	0	0	92	
	76	0	3	69	
	74	0	1	70	
	73	0	9	17	
	75	0	2	21	
MEKRA	455	0	7	52	
	454	0	9	93	
	452	0	6	47	
	451	0	14	85	
	423	0	7	17	
	422	0	7	90	
	421	0	0	60	
	414	0	4	47	
	2273	0	3	70	
	2274	0	3	92	
	486	0	1	39	
	462	0	2	8	
	461	0	0	46	
	458	0	1	39	
	453	0	0	40	
	199	0	1	59	
	198	0	5	40	
	197	0	5	34	
	196	0	3	54	
	195	0	0	40	
	182	0	3	42	
	183	0	4	83	
	184	0	2	88	

1	2	3	4	5
	185	0	1	55
	181	0	0	74
	186	0	5	23
	2337	0	0	40
	2336	0	3	99
	3502	0	8	82
	2348	0	3	60
	2350	0	0	56
	2331	0	6	57
	2330	0	5	75
	2329	0	1	58
	2328	0	3	85
	2327	0	2	58
	2326	0	3	0
	2325	0	2	63
	2324	0	1	85
	2496	0	19	44
	2497	0	8	58
	2502	0	1	29
	2503	0	2	63
	2504	0	3	9
	2505	0	0	41
	2506	0	2	77
	2507	0	1	86
	2508	0	1	88
	2509	0	1	73
	2510	0	2	26
	2511	0	3	10
	2512	0	0	40
	2513	0	3	56
	2514	0	0	69
	2515	0	3	81
	2516	0	4	36
	2517	0	2	77
	2519	0	2	73
	2533	0	0	40
	2534	0	4	62
	2535	0	7	25
	2536	0	6	81
	2537	0	3	49
	2538	0	0	40
	2539	0	0	40
	2540	0	5	0
	2541	0	0	40
	2542	0	8	90
	2543	0	0	40
	2544	0	1	69

1	2	3	4	5
	2545	0	0	92
	2547	0	4	16
	2548	0	4	4
	2549	0	0	40
	2550	0	0	40
	2551	0	2	49
	2552	0	2	21
	2553	0	2	51
	3505	0	2	51
	2554	0	1	4
	2560	0	1	57
	2559	0	0	40
	2556	0	7	63
	2555	0	3	35
	3316	0	2	79
	3315	0	4	5
	3314	0	0	40
	3319	0	1	94
	3320	0	2	26
	3321	0	8	17
	3322	0	0	98
	3323	0	2	61
	3324	0	0	40
	3325	0	3	5
	3326	0	0	46
	3327	0	1	66
	3328	0	2	70
	3329	0	0	40
	3330	0	0	85
	3331	0	1	21
	3332	0	1	39
	3334	0	1	39
	3335	0	0	58
	3356	0	5	45
	3357	0	1	27
	3358	0	1	11
	3359	0	0	40
	3348	0	0	40
	3349	0	4	8
	3350	0	2	26
	3354	0	0	40
KANHAIPUR	1209	0	3	69
	1210	0	1	94
	1211	0	0	40
	1595	0	6	84
	1596	0	2	29

1	2	3	4	5
	1597	0	0	56
	1599	0	0	40
	1223	0	0	46
	1225	0	0	52
	1226	0	0	40
	1594	0	0	40
	1593	0	1	94
	1592	0	1	61
	1591	0	0	52
	1590	0	4	43
	1228	0	1	80
	1229	0	1	1
	1230	0	0	97
	1231	0	0	40
	1589	0	2	91
	1588	0	1	39
	1587	0	0	40
	1586	0	7	8
	1585	0	0	40
	1579	0	2	77
	1507	0	4	63
	1508	0	1	26
	1506	0	1	14
	1505	0	0	40
	1504	0	0	50
	1503	0	3	7
	1509	0	2	75
	1577	0	0	40
	1502	0	1	87
	1512	0	0	58
	1513	0	0	40
	1501	0	0	51
	1500	0	1	4
	1499	0	0	97
	1498	0	1	16
	1497	0	0	40
	1496	0	0	83
	1495	0	0	40
	1494	0	0	40
	1493	0	1	74
	1492	0	1	87
	1487	0	0	97
	1486	0	2	11
	1485	0	1	48
	1484	0	1	97
	1483	0	0	46
	1482	0	3	3

1	2	3	4	5
	1481	0	0	40
	1479	0	0	40
	1477	0	1	36
	1476	0	0	40
	1474	0	0	83
	1478	0	0	80
	1473	0	1	10
	1472	0	0	40
	1461	0	2	73
	1460	0	1	91
	1459	0	2	73
	1458	0	2	21
	1457	0	4	20
	1456	0	0	40
	43	0	0	40
	44	0	5	54
	45	0	0	46
	1610	0	1	73
	907	0	0	40
	792	0	1	50
	791	0	3	22
	789	0	2	86
	788	0	3	27
	787	0	0	83
	786	0	3	33
	785	0	0	40
	784	0	10	40
	783	0	3	87
	762	0	8	44
	761	0	0	40
	760	0	0	40
	759	0	0	56
	758	0	0	40
	757	0	0	72
	756	0	0	72
	754	0	9	81
	755	0	1	73
	764	0	1	77
	753	0	1	48
	752	0	2	70
	751	0	11	22
	723	0	7	36
	722	0	3	0
	721	0	3	54
	720	0	0	40
	719	0	7	8
	718	0	19	49

1	2	3	4	5
	1617	0	0	40
	1618	0	4	39
SEONAR	1905	0	3	54
	1906	0	2	56
	1907	0	7	8
	1908	0	8	16
	1909	0	0	40
	1910	0	7	63
	1911	0	8	48
	1912	0	0	40
	1903	0	0	74
	1899	0	13	95
	1898	0	1	29
	1895	0	3	27
	1894	0	3	45
	1893	0	3	90
	1892	0	4	32
	1891	0	0	40
	1887	0	8	48
	1886	0	9	30
	1885	0	2	72
	1827	0	8	89
	1829	0	3	81
	1830	0	3	51
	1831	0	0	40
	1832	0	3	0
	1833	0	5	79
	1837	0	0	40
	1836	0	0	40
	1835	0	0	40
	1834	0	3	31
	1821	0	0	40
	1822	0	0	40
	1820	0	7	38
	1818	0	0	74
	1819	0	3	29
	1817	0	5	45
	1815	0	4	90
	1814	0	9	30
	1813	0	0	74
	1812	0	2	75
	1811	0	0	40
	1810	0	11	22
	1797	0	4	63
	1796	0	2	28
	1795	0	1	33

1	2	3	4	5
	1798	0	1	29
	1792	0	1	29
	1791	0	3	30
	1793	0	0	79
	1790	0	2	37
	1789	0	2	72
	1788	0	3	54
	2443	0	0	40
	1787	0	1	66
	1786	0	1	17
	1785	0	0	40
	2445	0	16	56
	2446	0	2	82
	2447	0	1	15
	2444	0	0	40
	2448	0	8	76
	2435	0	2	92
	2465	0	0	40
	2464	0	1	61
	2463	0	4	78
	2459	0	1	11
	2460	0	1	94
	2462	0	3	0
	2476	0	1	24
	2475	0	4	25
	2480	0	11	49
	2481	0	4	90
	2482	0	5	45
	2483	0	0	40
	2484	0	8	3
	2485	0	0	96
	3146	0	5	68
	3145	0	16	72
	3144	0	7	79
	2983	0	1	27
	3143	0	6	8
	3142	0	2	63
	2984	0	7	90
	3135	0	14	23
	3134	0	2	83
	3127	0	1	90
	3128	0	2	18
	3129	0	3	70
	3806	0	3	54

1	2	3	4	5
	3130	0	3	43
	3120	0	13	41
	3113	0	5	45
	3821	0	2	45
	3112	0	2	29
	3111	0	5	17
	3110	0	0	40
	3107	0	3	28
	3103	0	7	12
	3104	0	2	72
	3105	0	3	16
	3345	0	0	40
	3346	0	1	90
	3347	0	2	18
	3348	0	3	43
	3328	0	10	11
	3329	0	3	3
	3344	0	8	3
	3330	0	10	18
	3327	0	0	40
BARAHPUR	1	0	24	36
	4	0	7	63
	5	0	5	71
	6	0	2	45
	7	0	4	19
	11	0	4	20
	12	0	3	81
	16	0	3	27
	15	0	2	72
	20	0	5	72
	22	0	3	27
	23	0	4	74
	24	0	4	90
	25	0	9	3
	127	0	3	35
	126	0	1	13
	124	0	2	42
	123	0	3	88
	130	0	0	76
	131	0	3	69
	132	0	10	12
	122	0	2	77
	135	0	0	69

1	2	3	4	5
	136	0	11	12
	138	0	0	62
	108	0	1	66
	107	0	15	89
	103	0	3	0
	106	0	0	40
	140	0	7	66
	144	0	2	40
	145	0	0	40
	143	0	3	0
	177	0	2	35
	174	0	8	34
	175	0	1	78
	173	0	8	35
	172	0	2	44
	184	0	10	19
	183	0	0	97
	186	0	1	57
	187	0	0	40
	188	0	3	90
	189	0	4	20
	190	0	3	32
	191	0	4	63
	195	0	3	51
	196	0	2	28
	859	0	12	31
	860	0	0	40
	856	0	3	32
	854	0	5	51
	853	0	1	39
	803	0	0	40
	805	0	9	20
	806	0	0	83
	817	0	7	82
	816	0	0	62
	807	0	0	40
	808	0	6	48
	809	0	0	76
MOR	2327	0	2	21
	2337	0	0	40
	2737	0	0	40
	2338	0	0	97
	2339	0	1	87

1	2	3	4	5
	2340	0	2	86
	2343	0	12	59
	2344	0	0	64
	2345	0	5	17
	2346	0	1	90
	2348	0	14	17
	2288	0	0	40
	2357	0	56	95
	2358	0	33	67
	2360	0	11	22
	2734	0	5	59
	2733	0	9	74
	2730	0	40	25
	2729	0	21	90
	2790	0	12	3
	2792	0	2	26
	2793	0	0	40
	2797	0	15	60
	2771	0	2	72
	2859	0	6	46
	2860	0	1	80
	3935	0	1	99
	3934	0	2	99
	3936	0	4	19
	3937	0	22	67
	3967	0	7	91
	3966	0	0	64
	3968	0	0	40
	3977	0	7	59
	3974	0	7	41
	3973	0	7	66
	3989	0	3	54
	3991	0	2	54
	3988	0	0	40
	3986	0	4	65
	3992	0	10	88
	3984	0	0	40
	3997	0	1	41
	3998	0	0	52
	3999	0	2	29
	4005	0	3	27
	4006	0	2	63
	4021	0	5	72
	4023	0	23	45

1	2	3	4	5
	4022	0	2	28
	4014	0	10	81
	4032	0	2	7
	4033	0	7	35
	4045	0	0	83
	4046	0	4	16
	4047	0	2	54
	4048	0	7	49
	4049	0	6	81
	4053	0	2	18
	4054	0	5	45
	4056	0	0	40
SULTANPUR	925	0	45	45
	933	0	9	30
	934	0	7	85
	935	0	6	68
	909	0	12	94
	908	0	1	1
	910	0	3	0
	911	0	3	30
	912	0	4	94
	703	0	2	77
	695	0	3	33
	671	0	3	88
	670	0	4	62
	669	0	0	40
	668	0	3	46
	667	0	2	91
	664	0	0	40
	657	0	1	50
	1148	0	1	72
	658	0	9	59
	659	0	1	24
	655	0	0	48
	654	0	4	26
	660	0	0	40
	661	0	0	40
	652	0	10	81
	651	0	0	74
	654	0	1	20
	650	0	2	45
	409	0	2	40
	408	0	2	96

1	2	3	4	5
	413	0	7	66
	412	0	8	22
	418	0	4	41
	454	0	0	97
	453	0	4	11
	459	0	4	90
	458	0	9	70
	460	0	2	42
	461	0	0	66
	462	0	5	86
	464	0	6	91
	479	0	14	92
	480	0	2	40
	478	0	0	53
	481	0	1	19
	482	0	1	94
	485	0	11	77
AUTA	3349	0	4	25
	3350	0	4	45
	3351	0	5	51
	3352	0	5	55
	3353	0	4	16
	3354	0	8	54
	3348	0	1	29
	3324	0	4	46
	3321	0	3	32
	3320	0	1	90
	3317	0	2	18
	3316	0	1	29
	3315	0	0	81
	3306	0	6	32
	3307	0	0	40
	3303	0	3	97
	3302	0	3	68
	3296	0	12	30
	3297	0	0	40
	3298	0	0	40
	3299	0	0	40
	3300	0	0	40
	3301	0	1	1
	3481	0	1	61
	3486	0	2	91
	3487	0	3	49

1	2	3	4	5
	3489	0	4	61
	3490	0	1	57
	3491	0	2	46
	3216	0	18	72
	3224	0	5	1
	3225	0	3	0
	3226	0	1	69
	3229	0	6	59
	3231	0	2	44
	3232	0	2	3
	3233	0	2	53
	3234	0	5	12
	3236	0	4	58
	3238	0	1	61
	3239	0	0	40
	3240	0	0	40
	3241	0	0	40
	3242	0	0	40
	3243	0	1	74
	3244	0	1	63
	3245	0	0	40
	3246	0	6	56
	3247	0	0	56
	3165	0	0	40
	2884	0	0	40
	2886	0	6	44
	2887	0	7	65
	2883	0	0	91
	2889	0	5	13
CHINTAMANCHAK				
	1	0	0	40
	2	0	3	62
	5	0	2	72
	7	0	7	11
	8	0	6	54
	23	0	3	4
	24	0	5	58
	25	0	10	95
	26	0	8	73
	27	0	1	66
	28	0	4	99
	29	0	0	99
	30	0	2	72
	70	0	0	40

1	2	3	4	5
	34	0	6	30
	33	0	0	40
	41	0	5	81
	42	0	0	55
	642	0	25	18
	643	0	7	84
	641	0	2	21
	612	0	4	43
	611	0	1	84
	610	0	2	94
	608	0	1	94
	644	0	16	13
	607	0	2	37
	670	0	2	70
	671	0	1	90
	672	0	1	63
	678	0	3	15
	604	0	6	4
	603	0	7	25
	679	0	3	6
	690	0	4	71
	691	0	2	71
	692	0	2	33
	693	0	6	67
	695	0	18	72
	711	0	10	93
	721	0	3	65
	720	0	3	54
	780	0	3	59
	781	0	1	82
	778	0	2	65
	777	0	7	66
	776	0	6	81
	775	0	7	90
	774	0	2	45
	773	0	3	27
	772	0	3	0
	765	0	3	81
	770	0	12	31
	769	0	7	47
	768	0	6	18
	2237	0	15	16
	2236	0	8	21
	2235	0	8	55

1	2	3	4	5
	2234	0	15	16
	2242	0	4	36
	2243	0	10	67
	2245	0	10	67
	2247	0	2	72
	2248	0	7	22
	2254	0	8	21
	2255	0	6	27
	2494	0	4	47
	2493	0	4	36
	2497	0	3	27
	2498	0	4	19
	2500	0	5	17
	2503	0	2	7
	2504	0	2	51
	2485	0	5	72
	2484	0	3	27
	2482	0	3	54
	2481	0	1	42
	2480	0	0	40
	2479	0	4	82
	2476	0	16	97
	2475	0	1	63
	2474	0	4	36
	2940	0	4	41
	2941	0	1	96
	2942	0	2	67
	2945	0	2	72
	2970	0	4	8
	2948	0	0	40
	2949	0	0	40
	2969	0	3	81
	2968	0	3	83
	2958	0	0	40
	2959	0	0	46
	2961	0	1	16
	2962	0	1	80
	2967	0	2	34
	2966	0	1	83
	2965	0	1	74
	2903	0	4	36
	2904	0	4	36
	2906	0	8	17
	2907	0	4	90

1	2	3	4	5
	2908	0	3	21
	2884	0	0	40
	2810	0	2	61
	2811	0	3	27
	2812	0	2	45
	2813	0	3	10
	2814	0	0	40
	2861	0	4	41
	2860	0	4	36
	2859	0	2	64
	2858	0	1	15
	2857	0	1	13
	2856	0	2	78
	2846	0	1	5
	2845	0	1	29
	2818	0	0	89
	2819	0	1	7
	2824	0	0	67
	2827	0	0	55
	2828	0	0	51
	2817	0	3	81
	2800	0	1	78
	2799	0	2	29
	2798	0	4	36
	2797	0	4	36
	2791	0	8	76
	2787	0	16	70
MOKAMA KHAS				
	909	0	5	19
	916	0	3	80
	917	0	3	81
	918	0	3	14
	919	0	0	40
	921	0	4	58
	923	0	0	40
	928	0	0	40
	929	0	5	40
	930	0	0	97
	927	0	7	85

1	2	3	4	5
	931	0	7	86
	936	0	0	40
	933	0	5	50
	932	0	4	50
	934	0	0	97
	1006	0	0	40
	1007	0	6	57
	1012	0	0	40
	1013	0	8	81
	1014	0	4	32
	1025	0	1	29
	1024	0	3	90
	1023	0	0	55
	1031	0	2	45
	1032	0	3	93
	1033	0	1	6
	6013	0	1	73
	1091	0	7	11
	1090	0	2	73
	1087	0	9	58
	1081	0	5	39
	1080	0	2	36
	1079	0	0	10
	1082	0	9	17
	1083	0	5	1
	1073	0	3	56
	1072	0	0	97
	1070	0	4	43
	1043	0	2	45
	1044	0	2	7
	1069	0	0	40
	1068	0	3	54
	1067	0	4	63
	1065	0	0	40
	1066	0	4	16
GOSHAINGAON		1208	0	6
		1209	0	53
		1215	0	21
				42

1	2	3	4	5
	1216	0	7	36
	1217	0	9	85
	1218	0	16	15
	1219	0	8	48
	1224	0	81	32
	1246	0	10	95
	1257	0	2	39
	1258	0	2	98
	1259	0	5	15
	1262	0	18	7
	1283	0	12	32
	1287	0	3	68
	1288	0	0	40
	1289	0	2	14
	1292	0	1	77
	1293	0	5	31
	1299	0	2	8
	1748	0	7	37
	1298	0	4	16
	1320	0	0	40
	1319	0	9	60
	1304	0	5	34
	1305	0	7	16
	1306	0	0	40
	1318	0	1	52
	1313	0	12	73
	1309	0	12	75
	1310	0	0	40
DARIAPUR	586	0	1	36

[No. R-31015/53/2000 OR-I]
S. CHANDRASEKHAR, Under Secy.

नई दिल्ली, 27 अगस्त, 2001

का. आ. 2296.—तेल उद्योग विकास अधिनियम, 1974, (1974 का 47) की धारा-3 की उप धारा (3) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा अगले आदेश होने तक तत्काल प्रभावी तारीख से श्री विनय कोहली, सचिव, रसायन एवं पेट्रोरसायन विभाग को श्री टी०एन० कौल, के स्थान पर दो वर्ष से अनधिक अवधि के लिए तेल उद्योग विकास बोर्ड के सदस्य के रूप में नियुक्त करसी है।

[फा. सं. जी-35012/3/92-लित-II]
के. पी. के. नमीसन, अवर सचिव

New Delhi, the 29th August, 2001

S. O. 2296.—In exercise of the powers conferred by Clause (a) of Sub-section (3) of Section 3 of the Oil Industry (Development) Act, 1974 (47 of 1974), the Central Government hereby appoints, with immediate effect and for a period not exceeding two years, Shri Vinay Kohli, Secretary, Department of Chemicals & Petrochemicals, as a Member of the Oil Industry Development Board, *vice* Shri V.N.Kaul.

[No. G-35012/3/92 Fin-II]
K. P. K. NAMBISSAN, Under Secy.

नई दिल्ली, 4 सितम्बर, 2001

का. अ का. आ. 2297.—केन्द्रीय सरकार को ऐसा प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में मुन्द्रा पत्तन स्थित अपरिष्कृत तेल संस्थापन (सी.ओ.टी.) मुन्द्रा से गुजरती हुई भटिंडा पाइपलाइन पंजाब राज्य में भटिंडा तक अपरिष्कृत तेल के परिवहन के लिए एक पाइपलाइन गुरुगोविंदसिंह रिफाइनरीज लिमिटेड (हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड की समनुबंधी) द्वारा बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को यह प्रतीत होता है कि उक्त पाइपलाइन बिछाने के प्रयोजन के लिए ऐसी भूमि जिसके भीतर उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है और जो इस अधिसूचना से उपरबद्ध अनुसूची में वर्णित है, के लिए उपयोग का अधिकार अर्जित करना आवश्यक है ;

अतः अब केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपर्याका (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उसमें उपयोग के अधिकार को अर्जित करने के अपने आशय की घोषणा करती है ;

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति, उस तारीख से, जिसको भारत के राजपत्र में यथाप्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, उसके उपयोग के या भूमि के भीतर पाइपलाइन बिछाने के लिए अधिकार के अर्जन के लिए लिखित रूप में श्री ए. आर. चौधरी, सकाम प्राधिकारी, मुन्द्रा-भटिंडा अपरिष्कृत तेल पाइपलाइन, पंजाब रिफाइनरी परियोजना, गुरुगोविंदसिंह रिफाइनरीज लिमिटेड (हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड की समनुबंधी), एल.पी.जी. बॉटलिंग प्लांट, हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड, भगत की कोठी, जोधपुर 342005 को आवेदन कर सकता है ;

अनुसूची

तात्त्विक : अम्बोर

जिला : जालोर

राज्य: राजस्थान

छोट का नाम	परसरा (सर्वेक्षण) क्रमांक	हिस्सा क्रमांक	ROU संशोधन		
			हेक्टर	एकर	वर्ग.मी.
1	2	3	4		
रायथल	1591		0	49	09
	1588		0	09	19
	1589	कार्ट ट्रैक सरकारी भूमि	0	01	00
	1597		0	01	47
	1590		0	58	85
	1598		0	26	73
	1599		0	24	62
	1600		0	24	04
	1610		0	15	98
	1611		0	08	09
	1616		0	22	23
	1615		0	00	11
	1618		0	22	04
	1619		0	21	72
	1620		0	35	75
	1621		0	16	42
	1634		0	16	68
	1635		0	03	48
	1579	कार्ट ट्रैक सरकारी भूमि	0	03	50
	1552		0	02	62
	1535		0	38	71
	1534		0	38	57
	1530		0	65	15
	1527		0	06	27
	1528		0	14	50
	1526		0	29	07
	1525		0	02	83
	1524	कार्ट ट्रैक सरकारी भूमि	0	03	90
	1483		0	12	12
	1522		0	29	53
	1521		0	14	61
	1517		0	12	86
	1516		0	10	29
	1515		0	13	57
	1489		0	10	71
	1490		0	11	70
	1512		0	01	00
	1506	2886	0	00	22
	1507		0	29	18
	1508		0	28	40

तहसील : अमृद्वार

ज़िला : ज़ालोर

राज्य: राजस्थान

ठांक का नाम	स्वसरा (सर्वेषण) क्रमांक	हिस्सा क्रमांक	ROU वेत्राल		
			हेक्टर	एकर	वर्ग.मी.
1	2	3	4	5	6
	1509		0	08	31
	1388	कार्ट ट्रैक सरकारी भूमि	0	02	16
	1358		0	16	34
	1355		0	26	60
	1356		0	15	08
	1347	कार्ट ट्रैक सरकारी भूमि	0	01	38
	1299		0	21	67
	1301		0	10	12
	1300		0	12	84
	1302		0	10	61
	1303		0	09	61
	1304		0	10	85
	1288		0	22	66
	1289		0	00	35
	1287		0	23	10
	1282		0	23	07
	1157	गोप्यर सरकारी भूमि	0	01	93
	1177		0	14	41
	1182		0	13	80
	1184		0	04	80
	1185		0	10	49
	1189		0	20	98
	1188		0	23	55
	1187		0	16	19
	1211	रोड सरकारी भूमि	0	02	30
	296		0	01	94
	295		0	16	36
	294		0	17	75
	293		0	20	56
	292		0	00	63
	291		0	10	90
	290		0	08	36
	277	कार्ट ट्रैक सरकारी भूमि	0	02	46
	225		0	19	75
	236		0	13	73
	231		0	26	21
	234		0	03	85
	233		0	41	94
	243		0	12	20

तहसील : आळोर

ज़िला : ज़ालोर

राज्य: राजस्थान

गाँव का नाम	व्यसना (सर्वेक्षण) क्रमांक	हिस्सा क्रमांक	ROU मेंब्रफल		
			ट्रैक्टर	एयर	वर्ग.मी.
1	2	3	4		
	244		0	11	20
	252	सरकारी भूमि	0	62	50
	251		0	01	00
	253		0	20	75
	254		0	19	91
	255		0	25	47
	256	रोड सरकारी भूमि	0	01	00
	35		0	12	25
	33		0	09	62
	21		0	11	75
	20	रोड सरकारी भूमि	0	01	00
	19		0	18	71
	18		0	25	37
	17		0	11	92
	14	रोड सरकारी भूमि	0	00	80
	13		0	14	83
	12		0	17	29
	9	रोड सरकारी भूमि	0	01	00
	6		0	21	75
	5		0	19	13
	4		0	01	33
	3		0	10	48
	2		0	18	00
	1		0	11	00

[फ. सं. 31015/12/2001-ओ.आर-II]

हरीश कुमार, अवर सचिव

New Delhi, the 4th September, 2001

S. O. 2297.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of crude oil from Crude Oil Terminal (COT) at Mundra Port in the State of Gujarat to Bhatinda in the State of Punjab, through Mundra - Bhatinda pipeline, a pipeline should be laid by Guru Gobind Singh Refineries Limited (A subsidiary of Hindustan Petroleum Corporation Ltd.)

And whereas It appears to the Central Government that for the purpose of laying the said pipeline it is necessary to acquire the right of user (ROU) in the land described under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification.

Now, therefore, In exercise of powers conferred by Sub-Section (1) of the Section 3 of the Petroleum and Minerals Pipeline (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein

Any person interested in the land described in the said schedule may within twenty one (21) days from the date on which the copies of this notification, as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein or laying pipeline under the land to Shri A. R. CHAUDHARY, Competent Authority, Mundra - Bhatinda Crude Oil Pipeline, Punjab Refinery Project Guru Gobind Singh Refineries Limited (A subsidiary of Hindustan Petroleum Corporation Ltd.), L.P.G. Bottling Plant, H.P.C.L. Bhagat ki kothi, Jodhpur 342005.

SCHEDULE

Tehsil : Ahore

District : Jalore

State : Rajasthan

Name of Village	Khasra (Survey) No.	Part If Any	ROU - Area		
			Hect.	Are.	Sq.mt.
1	2	3	4		
RAITHAL	1591		0	49	09
	1588		0	09	19
	1589	Cart Track G.L.	0	01	00
	1597		0	01	47
	1590		0	58	85
	1598		0	26	73
	1599		0	24	62
	1600		0	24	04
	1610		0	15	98
	1611		0	08	09
	1616		0	22	23
	1615		0	00	11
	1618		0	22	04
	1619		0	21	72
	1620		0	35	75
	1621		0	16	42
	1634		0	16	68
	1635		0	03	48
	1579	Cart Track - G.L.	0	03	50
	1552		0	02	62
	1535		0	38	71
	1534		0	38	57
	1530		0	65	15
	1527		0	06	27
	1528		0	14	50
	1526		0	29	07
	1525		0	02	83
	1524	C.T. - G.L.	0	03	90
	1483		0	12	12
	1522		0	29	53
	1521		0	14	61
	1517		0	12	86
	1516		0	10	29
	1515		0	13	57
	1489		0	10	71
	1490		0	11	70
	1512		0	01	00
	1506	2886	0	00	22

Tehsil : Ahore

District : Jalore

State : Rajasthan

Name of Village	Khasra (Survey) No.	Part If Any	ROU - Area		
			Hect.	Are.	Sq.mt.
1	2	3	4		
	1507		0	29	18
	1508		0	28	40
	1509		0	08	31
	1388	C.T. - G.L.	0	02	16
	1358		0	16	34
	1355		0	26	60
	1356		0	15	08
	1347	C.T. - G.L.	0	01	38
	1299		0	21	67
	1301		0	10	12
	1300		0	12	84
	1302		0	10	61
	1303		0	09	61
	1304		0	10	85
	1288		0	22	66
	1289		0	00	35
	1287		0	23	10
	1282		0	23	07
	1157	C.G. - G.L.	0	01	93
	1177		0	14	41
	1182		0	13	80
	1184		0	04	80
	1185		0	10	49
	1189		0	20	98
	1188		0	23	55
	1187		0	16	19
	1211	Road G.L.	0	02	30
	296		0	01	94
	295		0	16	36
	294		0	17	75
	293		0	20	56
	292		0	00	63
	291		0	10	90
	290		0	08	36
	277	C.T. - G.L.	0	02	46
	225		0	19	75
	236		0	13	73
	231		0	26	21
	234		0	03	85
	233		0	41	94
	243		0	12	20

Tehsil : Ahore

District : Jalore

State : Rajasthan

Name of Village	Khasra (Survey) No.	Part If Any	ROU - Area		
			Hect.	Are.	Sq.mt.
1	2	3	4		
	244		0	11	20
	252	G.L.	0	62	50
	251		0	01	00
	253		0	20	75
	254		0	19	91
	255		0	25	47
	256	Cart Track	0	01	00
	35		0	12	25
	33		0	09	62
	21		0	11	75
	20	Road G.L.	0	01	00
	19		0	18	71
	18		0	25	37
	17		0	11	92
	14	Road G.L.	0	00	80
	13		0	14	83
	12		0	17	29
	9	Road G.L.	0	01	00
	6		0	21	75
	5		0	19	13
	4		0	01	33
	3		0	10	48
	2		0	18	00
	1		0	11	00

[No. R-31015/12/2001 OR-II]
HARISH KUMAR, Under Secy.

श्रम मंत्रालय

नई दिल्ली, 16 अगस्त 2001

का.प्रा. 2298.—श्रीद्वौगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केंद्रीय सरकार झट्टू.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट श्रीद्वौगिक विवाद में केंद्रीय सरकार श्रीद्वौगिक अधिकारण/श्रम न्यायालय, नागपुर के पंचाट को प्रकाशित करती है, जो केंद्रीय सरकार को 16-08-2001 को प्राप्त हुआ था।

[सं.एल-22012/582/99-आई.आर. (सी-II)]

एन. पी. केशवन, डेरक अधिकारी

MINISTRY OF LABOUR

New Delhi, the 16th August, 2001

S.O. 2298.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Nagpur, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of WCL and their workman, which was received by the Central Government on 16-8-2001.

[No. L-22012/582/99 IR(C-II)]
N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NAGPUR

PRESENT :

Shri B. G. Saxena, Presiding Officer.

REFERENCE NO. CGIT : 221/2000

The Chief General Manager, WCL

AND

The Secretary, R.K.K.M.S. (INTUC)

AWARD

The Central Government, Ministry of Labour, New Delhi by exercising the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Dispute Act, 1947 has referred this dispute for adjudication vide order No. I-22012/582/88-IR(CM-II) dated 6-7-2000 on following schedule.

SCHEDULE

"Whether the action of the management of Newton Sub Area of WCL, Pench Area, PO : Parasia, Distt : Chhindwara (MP) in not promoting Shri Khoobiram Dhurvey, Sr. clerk in Grade-I from 1981 is justified? If not, to what relief the workman concerned is entitled?"

Today application has been moved by C.L. Jaiswal Legal Adviser for the union of R.K.K.M.S. (INTUC) that Khoobiram Dhurvey, workman had moved application for Voluntary Retirement from service on 19-3-2001. He has retired on 24-5-2001 from the service of WCL. Now there is no dispute between workman and the management, hence the union wants to withdraw the case.

Management was represented by R.K. Mishra, Personal Manager. He has no objection for the withdrawal of the case.

The withdrawal application is therefore allowed and the workman is allowed to withdraw the case.

2668 GI/2001-10.

ORDER

As the workman has withdrawn the case due to having, retired from service and the management and the workman have settled the dispute, the reference is disposed of as withdrawn.

The workman is not entitled to any other relief.

Dated : 5-7-2001.

B. G. SAXENA, Presiding Officer

नई दिल्ली, 16 अगस्त, 2001

का.प्रा. 2299.—श्रीद्वौगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केंद्रीय सरकार एस.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट श्रीद्वौगिक विवाद में केंद्रीय सरकार श्रीद्वौगिक अधिकारण/श्रम न्यायालय, गोदावरीखानी के पंचाट को प्रकाशित करती है, जो केंद्रीय सरकार को 16-08-2001 को प्राप्त हुआ था।

[सं.एल-22025/25/2001-आई.आर. (सी-II)]

एन. पी. केशवन, डेरक अधिकारी

New Delhi, the 16th August, 2001

S.O. 2299.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Godavari Khani, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workman, which was received by the Central Government on 16-8-2001.

[No. L-22025/25/2001-JR(C-II)]
N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GODAVARIKHANI
PRESENT :

Sri P. Gurunadha Rao, B.Sc., B.L., Chairman-cum-Presiding Officer.

Thursday, the 19th day of July, 2001
INDUSTRIAL DISPUTE NO. 52 OF 2001

BETWEEN

R. Shyam Sunder, S/o Rajanna,
Age 47 yrs., R/o Karimnagar Dist.
C/o 16-9-749/41/1,
Race Course Road, Malakpet,
Hyderabad, ... Petitioner.

AND

The General Manager,
Singareni Collieries Co. Ltd.,
Ramagundam Area No. I,
Ramagundam, Karimnagar District ... Respondent.

This petition coming before me for final hearing in the presence of the petitioner. Advocate for the respondent absent and having stood over for consideration till this date, the court passed the following:—

AWARD

1. This is a petition filed U/s. 2-A(2) of the Industrial Disputes Act, 1947, as amended by A.P., Amendment Act, 1987.

Facts of the case briefly are as follows:—

The petitioner was working as Clerk, Grade-III. Charges were framed against him on 27-7-98. Domestic enquiry was

conducted. Management witnesses were examined. The petitioner pleaded guilty to the charges. The petitioner was dismissed from the service on 6-1-1999.

2. Respondent filed counter.
3. Ex. M-1 to Ex. M-11 are marked.

Heard petitioner.

Advocate for respondent absent.

4. The point for consideration is whether the charges against the petitioner are proved, if so, whether the punishment of dismissal of the petitioner from the service is in proportion to the charges.

5. Point : Ex. M-3 is charge-sheet dated 27-7-1998. Four charges are framed against him. Fourth charge is that several workers declared unfit at Kakatiya Nagar Dispensary without advice of the concerned doctor.

Ex. M-4 is explanation to the charge-sheet.

The petitioner stated that on 28-6-98, he collected Medical unfit certificates from K. K. dispensary and took them to his house. On 30-6-98, he handed them over to one Gangadhar Rao, clerk.

6. Ex. M-6 is enquiry proceedings.

K. Prabhakara Chary, Acting P.O.A., Area Hospital, Rambandam stated that many workers were declared unfit during the strike period. i.e., from 25-5-98 at Kakatiya Dispensary.

He further stated that whenever a worker declared unfit, certificate in triplicate will be prepared. The duty doctor will sign in the certificate. On 30-6-98, one Gangadhar, Clerk collected unfit certificates from the house of the Petitioner.

7. B. Sunil Kumar, Medical Officer, Area Hospital, Rambandam stated that on 3-6-1998, he received a circular from Regional Hospital instructing not to give unfit certificates to the workmen unless genuine. He signed unfit certificates believing the clerk. He received a letter from G.M., Rambandam giving a list of workers with unfit certificates during strike period from 25-5-98. He further stated that in some cases, without his advice, unfit certificates were issued. His evidence shows that unfit certificates were issued without his knowledge.

The petitioner did not cross-examine the doctor.

8. The petitioner stated in his evidence that he was maintaining unfit and fit records from 1997 onwards. There was no provision for maintaining triplicate copy of unfit certificates. He further stated that he used to prepare unfit certificates in duplicate. On 30-6-98 V. Gangadhar Rao came to his house and collected O.P. tickets for the period 25-5-98 to 20-6-98 and also collected unfit certificates relating to 25-5-98. He categorically stated that he had gone to his house and brought the unfit certificates from his house and handed-over them to Gangadhar Rao.

9. Ex. M-7 is enquiry report.

Ex. M-10 is dismissal order dated 6-1-99.

The petitioner issued unfit certificates without the advice of the doctor. The petitioner did not maintain triplicate copy of unfit certificates. The petitioner kept unfit certificates in his house.

I consider that the charges against the petitioner are proved and the punishment of dismissal of the petitioner from the service is in proportion to the charges. Hence, I answer the point accordingly.

In the result, this petition is dismissed. The order of dismissal of the petitioner from the service is confirmed. Each party do bear their own costs.

Typed to my dictation, corrected and pronounced by me in the open court on this, 19th day of July, 2001.

P. GURUNADHA RAO, Chairman-cum-Presiding Officer

Appendix of Evidence

Witnesses Examined

For Workman :

-Nil-

For Management :

-Nil-

Exhibits

For workman :

-Nil-

For Management :

- Ex. M-1 dt. 15-5-80 Warning letters issued to the petitioner, xerox copy.
- Ex. M-2 dt. 30-4-80 Charge-sheet.
- Ex. M-3 dt. 27-7-98 Charge-sheet.
- Ex. M-4 dt. 2-8-98 Reply to the charge-sheet.
- Ex. M-5 dt. 2-8-98 Enquiry notice.
- Ex. M-6 dt. 7-8-98 Enquiry proceedings alongwith the documents.
- Ex. M-7 dt. 7-8-98 Enquiry report.
- Ex. M-8 dt. 20-10-98 Show-cause notice.
- Ex. M-9 dt. 23-10-98 Ack., to the show-cause notice.
- Ex. M-10 dt. 6-1-99 Dismissal order.
- Ex. M-11 dt. 29-3-99 Letter issued to the petitioner by the Director (CP & P).

नई दिल्ली, 16 अगस्त, 2001

का.आ. 2300:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार बी.बी.एम.बी. के प्रबंधतात्र के संबद्ध नियोजक और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अपन न्यायालय, चंडीगढ़ के रांचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-08-2001 को प्राप्त हुआ था।

[सं.एल-42012/93/91-डी-II(बी)]

एन. पी. केगवन, डैस्क अधिकरी

New Delhi, the 16th August, 2001

S.O. 2300.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Chandigarh, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BBMB and their workman, which was received by the Central Government on 16-8-2001.

[No. L-42012/93/91-D. II(B)]
N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE SHRI B.L. JATAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, CHANDIGARH

Case No. ID 15 of 1992

The General Secretary,
BSL Project Mazdoor Ekta Union,
S. 1/51, Sunder Nagar Township (HP) 174402.
... Petitioner.

Vs.

Executive Engineer,
Hydel Channel Divn., & Gate,
B.B.M.B. Sunder Nagar Township (HP) 174402.
... Respondent.

Representatives :

For the workman : Shri Dhani Ram.

For the management : Mrs. Neeru Chadha.

AWARD

(Passed on 20th July 2001)

The Central Government, Ministry of Labour vide Notification No. L-42012/93/91-D.2(B) dated 4th March 1992 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of BHMB Sundernagar Township in terminating the services of Shri Moti Lal, S/o Puran Chand w.e.f. 1-8-89 is justified? If not, what relief he is entitled to?"

2. Case taken up today at the request of the rep. of the workman does not want to proceed with the present reference workman does not want to proceed with the present reference as he has been re-employed by the management. In view of the statement of the rep. of the workman the present reference is returned as No dispute Award. Appropriate Government be informed.

Chandigarh

20-7-2001.

B. L. JATAV, Presiding Officer

नई दिल्ली, 16 अगस्त, 2001

का. प्रा. 2301.—श्रीयोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट श्रीयोगिक विवाद में केन्द्रीय सरकार श्रीयोगिक अधिकारण/अम न्यायालय नागपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-08-2001 को प्राप्त हुआ था।

[सं. एल-22012/394/93-प्राई.प्रार. (सी-II)]

एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 16th August, 2001

S.O. 2301.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal/Labour Court, Nagpur, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of WCL and their workman, which was received by the Central Government on 16-8-2001.

[No. L-22012/394/93-IR(C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NAGPUR

PRESENT :

Shri B. G. Saxena, Presiding Officer
Reference No. CGIT : 152/2000

The Sub Area Manager, Rajur Colliery, WCL

AND

Shri Baban Zamu Gadhaw (Workman)

AWARD

The Central Government, Ministry of Labour, New Delhi by exercising the powers conferred by clause (d) of Sub-Section (1) and Sub-Section 2(A) of Section 10 of the Industrial Dispute Act, 1947 has referred this dispute for

adjudication vide order No. L-22012/394/93-IR(C-II) dated 16-3-94 on following schedule.

SCHEDULE

"Whether the action of the management of the Sub Area Manager, Rajur Colliery of WCL, PO : Rajur, Tah-Wani, Distt. Yavatmal in terminating the services of Shri Baban Zamu Gadhaw, Ex-Fitter-Helper Rajur Colliery is justified or not? If not then to what relief the workman is entitled to?"

This reference was sent by Ministry of Labour, New Delhi on 16-3-94 to C.G.I.T. Mumbai Tribunal No. I. This file was received by transfer from Mumbai to this Court in June, 2000.

The workman Baban Zamu Gadhaw was appointed as Loader on 23-7-81 at Rajur Colliery of WCL. He was promoted as Category-I Majdoor from 1-5-83. He was further promoted as Fitter Helper on 1-4-84. In 1991 he worked for 91 days and in the year 1992 from January, 92 to December, 92 he worked for 94 days. Chargesheet was issued against him 25-2-93 as he was in the habit of remaining absent without any leave. He submitted reply to the chargesheet on 19-3-93. Shri Gohakar was appointed as Enquiry Officer on 28-3-93. The service of the workman was terminated vide order dated 26-5-93.

The workman Baban Z. Gadhaw has stated that he was not given opportunity to be represented or to take the help of co-worker during enquiry. The documents were not given to him. The enquiry report and show cause notice were not given to him before imposing punishment.

He also says that he was promoted as Fitter Helper from 1-4-84, whereas his juniors got promotion early. The authority concerned demanded bribe from him and due to not making any payment his service was terminated. He claimed for reinstatement with full backwages.

The management of WCL has stated that the performance of the workman was unsatisfactory. The workman had developed the habit of remaining absent from duty unauthorisely. He was not getting his leave sanctioned from the Superior Officers. In 1992 he worked only for 94 days. The copy of chargesheet was given to him. The workman Baban Z. Gadhaw submitted his Written Explanation on 19-3-93. He was advised to take the help of the co worker. He told the Enquiry Officer that he would conduct the case himself and does not want to take the assistance of co-worker. He attended the enquiry and himself cross examined the witnesses of management. He produced documents in defence. The Enquiry Officer submitted finding that charges were proved against him and his service was terminated vide Letter No. WCL-RSASAM-PER-93-617 dated 26-5-93. The story for demanding the bribe is false. He did not raise any dispute before ALC regarding his issue of seniority.

Both the parties in this case have submitted oral and documentary evidence. I have heard the advocates of both the parties and have prepared the oral and documentary evidence on record.

Baban Z. Gadhaw the workman submitted his affidavit on 4-7-96 and was cross examined by the advocate of WCL in C.G.I.T. Court in Mumbai.

The witness of management S.M. Gohakar has also submitted his affidavit in C.G.I.T. No. I in Mumbai on 10-7-97. He was cross examined in this court by the advocate of workman M. S. Nandanwar on 26-9-2000. The counsel for workman further called this witness for cross examination and he was further cross examined on 3-4-2001.

Both the parties have also submitted their Written Arguments through their advocates.

The workman Baban Z. Gadhaw was cross examined on 3-3-97 by the counsel for the management of WCL. He admitted in cross examination that he had received the copy of chargesheet before the Commencement of enquiry. He also admitted that he remained present on duty only for 94 days during the year 1992. He remained absent during the remaining days in the year 1992. In his reply of the chargesheet dated 19-3-1993 he did not mention about the illness from which he suffered.

He also admitted that he did not take any co-employee or the union worker to defend him in the enquiry proceedings. He attended the enquiry and had signed all sheets of the enquiry proceedings. He was supplied with the list of witnesses and the copies of the documents during the enquiry. He did not complain against the witnesses Mr. Inoor and Mr. Madan who were examined during enquiry from the side of management.

Thus the workman has admitted that enquiry was conducted fairly and he was given opportunity to cross examine the witnesses of management. He had no grievance against the Enquiry Officer S. N. Gorakar.

The statement of Shri S. N. Gorakar was also recorded in this court. He mentioned in cross examination that from Jan, 1992 to Dec, 1992 the workman had worked for 94 days. He remained present on duty for 94 days in 1992 as mentioned in the chargesheet. He further says that M. P. Singh was the Presiding Officer from the side of management. After that D. P. Godeshwar was appointed in his place. The statement of D.P. Godeshwar was recorded on 20-4-93. He was cross examined by the workman. He had no prejudice with the workman. He further says that the workman was given opportunity to produce the defence.

The counsel for the workman has argued that the workman was denied opportunity to defend himself. This argument of the counsel for the workman has no force in the above circumstances.

I therefore hold that enquiry was conducted fairly and according to the principles of the Natural justice.

The counsel for the workman further argued that the punishment awarded to the workman i.e. terminating from service is disproportionate to the alleged charge.

I have considered the argument of the counsel of the workman. As I discussed above the workman has himself admitted in his reply to the chargesheet dated 19-3-93, that he did not mention about any illness. He had understood the contents of the chargesheets when he submitted his reply. It is therefore clear that the workman did not explain any convincing reason to his absence from duty as many as 271 days during the year 1992. He worked for only 94 days in 1992 and remained absent for 271 days. In the year 1991 also he worked only for 91 days. It is therefore clear that the workman was in the habit of remaining absent from duty without any satisfactory explanation. In the chargesheet it is clearly mentioned that in Jan, 1992 his attendance was nil. He did not work for any day in Jan, 1992. From July, 92 to Dec, 92 he was continuously absent for 6 months. He did not work even for a single day from July, 92 to Dec, 92. In the above circumstances the punishment awarded to him the termination of his service by the management of Sub Area Manager, Rajpur Colliery of WCL was justified. The workman is not entitled for any other relief.

ORDER

The action of the management of Sub Area Manager Rajur Colliery of WCL, P.O. Rajur, Tah. Wani, Distt. Yavatmal in terminating the services of Shri Baban Zamlu Gadhawe, Ex-Fitter Helper, Rajpur Colliery is justified.

The workman Baban Zamlu Gadhawe is not entitled for any other relief.

The reference is answered accordingly.

B. G. SAXENA, Presiding Officer

नई दिल्ली, 16 अगस्त, 2001

का.आ. 2302.— आधिकारिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुभरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधतंत्र के संदर्भ नियोजनों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट आधिकारिक विवाद में केन्द्रीय सरकार आधिकारिक अधिकारण/अम न्यायालय नागपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-08-2001 को प्राप्त हुआ था।

[सं.एल-22012/125/2000-आई.आर. (सी-II)]

एन. पी. केशवन, डेस्क अधिकारी

New Delhi, the 16th August, 2001

S.O. 2302.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal/Labour Court, Nagpur, as shown in the Annexure in the Industrial Dispute between the employees in relation to the management of WCL and their workman which was received by the Central Government on 16-8-2001.

[No. L-22012/125/2000-IR(C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NAGPUR

PRESENT :

Shri B. G. Saxena, Presiding Officer
Reference No. 299/2000 and 316/2000
THE SUB AREA MANAGER (WCL)
AND
SHRI JITENDRA SINGH RAJPUT

AWARD

The Central Government, Ministry of Labour, New Delhi by exercising the powers conferred by clause (d) of Sub Section (1) and Sub Section 2(A) of Section 10 of the Industrial Dispute Act, 1947 has referred this dispute for adjudication vide order No. L-22012/125/2000-IR(CM-II) dated 8/21-11-2000 and L-22012/125/2000-IR(CM-II) dated 22/28-9-2000 on following schedule.

SCHEDULE

"Whether the action of the management namely Sub Area Manager, Murpar Sub Area of WCL in terminating the services of Sh. Jitendra Singh Rajput Electrical Foreman, Murpar Project of WCL is legal and justified ? If not, to what relief the workman is entitled and from which date ? What other directions are necessary in the matter ?"

Reference No. L-22012/125/2000-IR(CM-II) dated 22/28-9-2000 was received in this court on 3-10-2000. This reference No. is registered at No. 299/2000. Both the parties were informed and 6-11-2000 was fixed. On this date Shri B. A. Raghorte, Safety Officer appeared for WCL management and filed the Vakalatname of Shri M. P. Badar, advocate. In this reference the workman remained absent on 6-11-2000 and 19-12-2000. Notice was issued to workmen's union and 19-1-2001 was fixed. An other Reference No. L-22012/125/2000-IR (CM-II) dated 8/21-11-2000 was received on 27-12-2000 and notices were issued to both the parties for 30-1-2001. This Reference No. was registered as 316/2000.

Both these references 316/2000 and 299/2000 had the same schedule and were concerning the termination of services of Shri Jitendra Singh Rajput, Electrical Foreman, Murpar Project of WCL.

On 19-1-2001 the counsel for workman Jitendra Singh Rajput appeared and filed Vakalatname. As the schedule in both these reference was common and the matter to be decided was the same, both the files were amalgamated and References No. 299/2000 became the leading file. The parties were informed that File No. 316/2000 has been attached with Reference File No. 299/2000.

The counsel for workman submitted Statement of Claim on 11-5-2001. Nobody appeared from the side of management to contest the case. This case was adjourned to 28-6-2001 and no Written Statement was filed from the side of management of WCL.

The case was again adjourned for 3-7-2001. Today both the parties were absent. Neither the representative of the workman appeared to contest the case nor the advocate of the workman Shri B. Lahiri appeared to represent the workman. The advocate of WCL Shri M. P. Badar also did not turn up to contest the case. The advocate of WCL Shri M. P. Badar did not submit any Written Statement from the side of management of WCL.

From the above facts it is evident that the advocate of the workman Jitendra Singh Rajput had filed Vakalatnama on 19-1-2001 and he took four months in filing Statement of Claim. The Statement of Claim was filed on 11-5-2001. The M. P. Badar the advocate of WCL did not appear in the court on any date from 6-11-2000 to 3-7-2001. His Vakalatnama was filed by Shri B. A. Raghorte on 6-11-2000. Safety Officer, Murpar, WCL

As both the parties in the case are avoiding to appear and contest the case, the above references should be disposed of for want of prosecution.

No document or affidavit has been filed by counsel for the workman in support of the Statement of Claim. Therefore there is no evidence on record to adjudicate the dispute between the parties.

ORDER

Reference No 316/2000 and 299/2000 concerning the matter of termination of services of Shri Jitendra Singh Rajput, Electrical Foreman, Murpar, Project of WCL were disposed of for want of prosecution.

No other directions are necessary in this matter as the parties are themselves avoiding to produce any evidence concerning the claim of the workman.

Dated 3-7-2001

B G SAXENA, Presiding Officer

नई दिल्ली, 16 अगस्त, 2001

का.आ 2303—आंदोलिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस सी.सी एल के प्रबंधतत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट आंदोलिक विवाद में केन्द्रीय सरकार आंदोलिक अधिकारण/अमन्त्रालय हैदराबाद के पचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-08-2001 दो प्राप्त हुआ था।

[स एल-21012/66/87-डी III(वी)]
एन पी केशवन, डैस्ट्रिक्ट अधिकारी

New Delhi, the 16th August, 2001

SO 2303 In pursuance of Section 17 of the Industrial Dispute Act 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Hyderabad, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workman, which was received by the Central Government on 16-8-2001.

[No. L-21012/66/87-D III(B)]
N P KESAVAN, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

PRESENT

Sri Syed Abdullah, B.Sc., B.L.,
Industrial Tribunal-I

Dated 20th day of July, 2001

Industrial Dispute No 50 of 1987

BETWEEN

Singareni Coal Mines Karmuka Sangh,
Rep by its General Secretary at
Ramakrishnapur,
Adilabad District

Petitioner

AND

The Management of Singareni Collieries Company Limited,
Rep by its General Manager at
Ramakrishnapur,
Adilabad District.

Respondent

APPEARANCES

Sri K. Srinivasa Murthy, Advocate for the Respondent
None for the Petitioner.

AWARD

The Government of India, Ministry of Labour by its Order dated 28-9-1987 vide No L-21012/66/87-D. III(B) has made a reference to this Tribunal for adjudication of the dispute under Clause (d) Sub-Section (1) of Section 10 of the Industrial Disputes Act, 1947 on the issues annexed to the schedule.

"Whether the action of the Management of M/s Singareni Collieries Company Limited, Ramakrishnapur in dismissing Shri P. David Raju, Motor Mechanic, Workshop from services with effect from 7-7-1986 is justified? If not to what relief the workman is entitled?"

After the appearance of the parties, they have filed their respective pleadings.

2 In the claim statement the averments made by the workman are as under.

The Workman (P. David Raju) Ex-Military Heavy Vehicle Mechanic had joined the service of the Respondent Company on 16-8-1977 as Motor Mechanic. While he was working, that on 24-9-1986, the Auto Garage Engineer of Mandamarri Workshop had instructed the workman to go to Mandamarri Workshop to enquire about the availability of the gear box parts and he obeyed the instructions. Shri Vijaya Saradhi Engineer Auto Garage of the workshop asked the workman to receive two tyres and in the absence of instruction, he refused to receive the same. Since he was insisted he obeyed the orders. After a lapse of three months from that date the workman was served with the charge sheet dt. 15-12-1985 that he failed to handover the tyres at Auto Garage at Ramakrishnapur and when he was asked to submit an explanation. The Divisional Engineer has no authority to issue a charge sheet to the workman. In charge sheet itself the punishment indicated questioning the charge sheet, the workman filed W.P. No. 8642 of 1986 in the High Court of Andhra Pradesh but it was dismissed at the admission stage. Subsequently the Divisional Engineer issued letter dt. 30-12-1985 to the workman to show cause why a sum of Rs 6,400.00 should not be recovered from his salary towards the cost of the tyres. The workman submitted his explanation. Followed by it another letter dt. 25/29-1-1986 was served on him stating that his explanation is not satisfactory, an amount of Rs 300.00 will be deducted from his wage every month and in fact no deduction was made. As apprehended formal enquiry was done and the workman was dismissed from service w.e.f 7-7-1986 vide letter dt. 6-7-1986 issued by the General Manager, Ramakrishnapur. Copies of the enquiry proceedings and findings are not all served. A show cause notice was served proposing punishment to be imposed without discussing evidence in support of the enquiry report. The good record of service of the workman was also not considered before imposing the grave punishment of dismissal which is highly disproportionate to the gravity of the charge said to have been established. Again W.P. No. 8642 of 1986 was filed but it was withdrawn with a permission to raise a dispute under the ID Act. The Enquiry Officer violated the principles of natural justice in conducting the enquiry. The Enquiry Officer also did not record the points asked in the cross examination of the management witness. Hence prayed to set aside the impugned order of dismissal and to order reinstatement of the workman with full back wages and all other benefits which he is entitled for in the interest of justice.

3 The Respondent filed counter and in brief stated as under

The records reveal that two tyres which were taken on loan account and handed over to P. David Raju did not reach the destination for accounting in the Company records which fact came to light on verification of the records. So

a charge sheet was issued by the competent authority. As per the procedure the Personnel Officer was appointed as Enquiry Officer to enquire into the matter for taking disciplinary action. It is false to allege that the enquiry was held in a formal manner complying with the principles of natural justice. The management witnesses were allowed to be cross examined. On the basis of the enquiry report and the findings the Management applied its mind and passed dismissal order dt. 6-7-1986. The workman had not chosen to ask for the copies of the enquiry proceedings. Though his conscious of his rights he filed writs to stall the proceedings. The Management had also dismissed Sri Vijaya Saradhi, Auto Garage Engineer for the shortage of misappropriation of company's material since he connived with the workman to cause loss to the Companys property. The workman had suppressed certain material facts relating to the case for which he was charge sheeted. Hence prayed to dismiss the claim in the interest of justice.

4. The point for adjudication is whether the Petitioner is entitled to the relief claimed for?

5. This Tribunal passed an Award dt. 26th February, 1990 holding that the action of the Management in dismissing Sri P. David Raju, Motor Mechanic from service w.e.f. 7-7-1986 is not justified. With regard to the other reliefs in this case, the fact that the workman did not deliver the tyres is beyond dispute. The order is vitiated purely on a technical ground, that the copy of the report of the Enquiry Officer was not furnished to him. In the circumstances it was felt that it is justified and proper if the workman is reinstated immediately giving back wages and other benefits only from the date of the Award. Aggrieved by the award passed by this Tribunal, the Management filed W.P. No. 13739 of 1990 which was considered by the Hon'ble High Court and in its judgement dt. 14th March, 2001 while allowing the writ petition, the award was set aside and the case was remitted back to this Tribunal directing it to dispose off the case on merits after giving an opportunity to both the parties expeditiously within four months from the date of receipt of the judgement. The Hon'ble High Court also observed that the labour Court should not have mechanically set aside the order of dismissal on the ground that the enquiry report was not furnished in view of the Apex Court's decision in the Management of E.C.I.L. vs. Karunakar (AIR 1997 S.C. Page 74) which is to the effect that the enquiry once completed cannot be reopened on the ground that the report of the Enquiry Officer was not furnished and further that the principles laid down in (Union of India vs. Md. Ramzan Khan) was only prospective in operation i.e., w.e.f. 20-11-1990 and therefore the impugned Award cannot be sustainable under law and the same is liable to be set aside.

6. As per the direction from the Hon'ble High Court in W.P. No. 13739/90 dt. 14-3-2001, it is to be considered what is the effect of non-furnishing of enquiry report in the light of the decision of the Hon'ble Supreme Court in Union of India vs. Md. Ramzan Khan (1990 (61) FLR page 763 S.C.) where in the principles laid down is that the decision has only a prospective effect from the date of the delivery of the said decision. Reiterating the same principle in a recent decision of the Apex Court in Oriental Insurance Company Limited vs. S. Balakrishnan (2001 (89) FLR 865) it has been made it clear once again that non-supply of the enquiry report could not have vitiated the entire proceedings. This Tribunal had passed the Award dated 20-2-1990 but placing reliance upon a decision of the judgement of the Supreme Court given in 1986 (II) LLJ page 434 Secretary of the Central Board of Excise and Customs vs. K. S. Mahalingam, in which it was held that non-supply of the report would therefore constitute violation of principles of natural justice and accordingly tantamounts to denial of reasonable opportunity within the meaning of Article 311(2) of the Constitution. Consequently the impugned punishment passed by the Management covered under Ex. M13 was held to be not valid and vitiated. As far as the facts of the case are concerned the inquiry report Ex. M12 was dated 20-12-85, and the dismissal order was passed on 6-7-86, by which date the decision in 1986 II LLJ (S.C.) 434 was not in existence to have any application of this case

7. In the Award dt. 26-2-1990 passed by this Tribunal, the findings are that the workman was guilty of the charges however the dismissal order as setaside on technical ground that the copies of the enquiry report was not furnished to the workman before passing the final dismissal order. On this aspect the Hon'ble High Court while disposing off the

Writ Petition No. 13739/90 against the Award passed by this Tribunal has not interferred with the findings given by this Tribunal with regard to the confirmation of the charges of misconduct. Even subsequent to the remand when an opportunity was given to the workman he did not come forward or attend to the hearing to proceed with the case muchless as pointed out any factual irregularities in respect of the findings arrived at about the misconduct that has been confirmed by this Tribunal basing on enquiry findings. As seen from the direction of the Hon'ble High Court in W.P. No. 13739/90 the case was remanded only for the limited purpose observing that the decision of the Hon'ble Supreme Court in Md. Ramzan Khan case has any prospective operation i.e., from 20-11-1990 for giving benefit to the workman. Both the enquiry report Ex. M12 and M13 were issued long prior to 20-11-1990 and as such no benefit can be extended to the workman.

8. In the result, Award is passed holding that the action of the management of M/s. Singareni Collieries Company Limited, Ramakrishnapur in dismissing P. David Raju, Motor Mechanic Workshop from service w.e.f. 7-7-1986 is justified. There is no order as to costs.

Dictated to the Senior Stenographer, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal, this the 20th day of July, 2001.

SYED ABDULLAH, Industrial Tribunal-I

Appendix of Evidence (BEFORE REMAND)
Documents marked for the Management.

- Ex. M1 Photostat copy of the order of General Manager, Singareni Collieries Company Limited, Ramakrishnapur, dt. 18-9-1985 appointing M. L. Sadanandam, Personnel Officer to conduct domestic enquiry of departments of Ramakrishnapur Area.
- Ex. M2 Charge Sheet dt. 15-12-1985 issued to P. David Raju, by the Sr. D.E. (W/S), R.K.P. S.C. Co. Ltd.
- Ex. M3 Explanation to the charge sheet dt. 18-12-85 submitted by P. David Raju to the Senior Divisional Engineer, Ramakrishnapur Workshop.
- Ex. M4 Enquiry Notice dt 2-1-1986 issued to P. David Raju, by the Sr. D.E. (W/S), R.K.P. S.C. Co. Ltd.
- Ex. M5 Enquiry Notice dt 4-1-86 issued to P. David Raju, by the Sr. D.E. (W/S), R.K.P. S.C. Co. Ltd.
- Ex. M6 Enquiry Notice dt. 9-1-86 issued to P. David Raju, by the Sr. D.E. (W/S), R.K.P. S.C. Co. Ltd.
- Ex. M7 Enquiry Notice dt. 11-1-86 issued to P. David Raju, by the Sr. D.E. (W/S), R.K.P. S.C. Co. Ltd.
- Ex. M8 Enquiry Notice dt 15-1-86 issued to P. David Raju, by the Sr. D.E. (W/S), R.K.P. S.C. Co. Ltd.
- Ex. M9 Enquiry Proceedings.
- Ex. M10 Application dt. 9-1-86 of P. David Raju to the enquiry officer for taking an observation.
- Ex. M11 Application dt. 4-1-86 of P. David Raju to the Sr. D.E. Workshop, Ramakrishnapur for adjournment of enquiry.
- Ex. M12 Enquiry Report.
- Ex. M13 Dismissal Order dt. 6-7-86 issued to P. David Raju by the General Manager, S.C. Co. Ltd., Ramakrishnapur Area.
- Ex. M14 Photostat copy of the letter dt. 13-7-85 addressed by Chairman and Managing Director, S.C. Co. Ltd., Kothagudem Collieries to all G.Ms./All Chiefs of S.C. Co. Ltd., with regard to disciplinary action.
- Ex. M15 True copy of the Show cause notice dt. 30-12-85 issued to P. David Raju by Sr. D.E. (W/S) R.K.P. with regard to cost of tyres which he took them on loan.
- Ex. M16 Copy of the explanation dt. 1-1-86 submitted by P. David Raju to D.E., S.C. Co. Ltd., Ramakrishnapur Division, Adilabad District (A.P.) in view of show cause notice dt. 30-12-85 (Ex. M15).

Ex. MJ7 True copy of the letter dt. 25/29-1-86 addressed to P. David Raju, by Sr. D.E. (W/S) R.K.P. with regard to recover costs of tyres by deducting Rs. 300 per month from his wages.

Documents marked for the Workmen :

NIL

AFTER REMAND :

No oral or documentary evidence adduced by both the parties.

नई दिल्ली, 16 अगस्त, 2001

का.आ. 2204.—जौद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उल्लू. सी. एल. के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अम न्यायालय नागपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2001 को प्राप्त हुआ था ।

[सं. प्रा.—22012/395/97-आई भार (सी-II)]
एन. पी. केशवन, ईस्क अधिकारी

New Delhi, the 16th August, 2001

S.O. 2304.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Nagpur, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of WCL and their workmen, which was received by the Central Government on 16-8-2001.

[No. L-22012/395/97-IR(C-II)]
N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NAGPUR

PRESENT :

Shri B. G. Saxena, Presiding Officer.
REFERENCE NO. CGIT : 98/2000

The General Manager, (WCL)

AND

Their 23 Workmen

AWARD

The Central Government, Ministry of Labour, New Delhi by exercising the powers conferred by clause (d) of Sub Section (1) and Sub Section 2(A) of Section 10 of the Industrial Dispute Act, 1947 has referred this dispute for adjudication vide order No. L-22012/395/97/IR(CM-II) dated 11-11-1998 on following schedule.

SCHEDULE

“Whether the action of the management namely General Manager (OP), Wani Area Ghugus of WCL, PO : Ghugus, Distt. Chandrapur, in not giving employment to the dependent of 23 ex-workers of Nakoda Mines is legal, proper and justified? If not, to what relief the workman is entitled and from which date? What other directions are necessary in the matter?”

Shri B. N. Prasad the counsel for the management is present.

Nobody turned up for the workmen to contest the case.

This reference was sent to C.G.I.T. Court No. II, Mumbai on 11-11-98. On 24-12-98 the case was registered

and notices were issued to the parties. In the statement of claim, it is mentioned that Party II i.e. workmen are a group of 23 number of ex-employees of RI and PITS of Nakoda, Sub Area of Wani, Area of WCL. In statement of claim submitted by the workmen through their advocate Shri S. N. Sarkar, It is not mentioned anywhere as to who are those 23 workmen. Thus the statement of claim does not show the names and the parentage of these workmen who raised the dispute and want to seek the relief.

In the written statement filed by the management of WCL dated 27-1-2000, again the list of the workmen who have claimed relief is not disclosed. In written statement it is mentioned that the 25 ex-workers were aggrieved whose dependants are alleged to have denied employment.

Thus from the statement of claim as well as from the written statement it is evident that both the parties are concealing the facts as to who are the claimants who raised the dispute. Who were the twenty three ex-employees and who are their dependants.

I have considered the schedule received from the Ministry of Labour. The list containing the names of the 23 workers and their dependants has not been sent to this Tribunal by the Desk Officer concerned namely V.K. Rajan.

This case was received in C.G.I.T. at Nagpur on 3-7-2000. In this case Shri S. N. Sarkar the counsel for the workmen appeared on 18-7-2000 and the counsel for WCL Shri B. N. Prasad was also present. None of the advocates submitted the list of the 23 ex-workers in this court. Shri S. N. Sarkar counsel for the workmen moved application for producing oral evidence but no oral evidence was produced from the side of the workmen. As many as seven adjournments were granted to the parties but they avoided to submit the list of the 23 workmen and the details of their dependants. On 28-5-2001 the undernoted order was passed.

Both the parties will file the list of the workers showing their names, parentage and full address who are seeking relief in this dispute and the case was adjourned to 23-7-2001.

Today also i.e. 23-7-2001, nobody appeared from the side of the workmen to conduct the case. Neither the advocate of the workmen appeared in the court nor any representative of their union turned up to represent the workmen. No list of the workmen or their dependants was submitted by the management. Thus more than one year has passed and both the parties have not submitted the list of the workmen, who have raised the dispute and who wants to seek relief from this Tribunal. In view of the above the facts on the vague statement of claim and the vague written statement of management, no relief can be granted. The reference is therefore disposed of for want of required information.

ORDER

As the name of the 23 ex-workmen and their dependants have not been disclosed by the union of the workmen in their statement of claim and also by the management in their written statement dated 27-1-2000, no relief can be granted in the above circumstances. More than one year time was granted to both the parties in this court and several adjournments were granted but both the parties concealed the names of the 23 ex-workmen and the names of their dependants. Hence the dispute cannot be settled. Even from the Ministry of Labour, New Delhi, the list of the 23 ex-workmen and their dependants was not sent with this reference. Thus the vague statement of claim and written statement were filed by the parties. The reference therefore is disposed of for want of prosecution and for required essential information for the decision of the reference.

Dated : 23-7-2001.

B.G. SAXENA, Presiding Officer

नई दिल्ली, 17 अगस्त, 2001

का.आ. 2305.—जौद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उल्लू. सी. एल. के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक

विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण/अमन न्यायालय नागपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2001 को प्राप्त हुआ था।

[सं. एल 22012/401/97-प्राई आर (सी-II)]
एन. पी. केशवन, डैस्क अधिकारी

New Delhi, the 17th August, 2001

S.O. 2305.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal[Labour Court, Nagpur, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of WCL and their workman, which was received by the Central Government on 16-8-2001.

[No. L-22012/401/97-IR(C-II)]
N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NAGPUR

PRSENT:

Shri B. G. Saxena, Presiding Officer,
Reference No. CGIT: 134/2000.
Sub Area Manager, WCL.

AND

Shri B. R. Rao

AWARD

The Central Government, Ministry of Labour, New Delhi exercising the powers conferred by clause (d) of Sub-Section (1) and Sub Section 2(A) of Section 10 of the Industrial Dispute Act, 1947 has referred this dispute for adjudication vide order No. L-22012/401/97-IR(CM-II) dated 11-11-98 on following schedule.

SCHEDULE

"Whether the action of the management of M/s. W. B. Ballarpur Area, Distt. Chandrapur in not fixing wages correctly i.e. not granting increment on 01-01-96 to Sh. B. R. Rao, Clerk, Sasti O.C. is proper, legal and justified? If not, to what relief the workman is entitled?"

This reference was received in C.G.I.T. Court No. II at Mumbai on 24-12-98 and notices were issued to the parties. As the name of the workman was not mentioned in schedule, the corrigendum was received from Ministry of Labour, New Delhi on 14-09-99 that the pay was not fixed correctly to Shri B. R. Rao, Clerk, Sasti Open Cast, WCL, Ballarpur Area, Distt. Chandrapur and whether this action of the management in not granting increment on 01-01-96 to B. R. Rao is justified or not?

It is admitted by both the parties that B. R. Rao was working as apprentice driver from 31-05-84, in WCL Open Cast, Sub Area Sasti on 09-04-90 he moved application to Sub Area Manager (Ex-MI) that he may be given an opportunity to serve as clerk. He shall not raise industrial dispute for protection of his salary adjustment here after. On 10-04-90 he accepted the initial basic salary of Clerk Gr-III and was posted as Typist with effect from 23-06-90 under the Medical Superintendent, Ballarpur Area.

Vide order No: WCL-BA.GM-PER-16813 dated 02-01-94, he was regularised as clerk Gr-II w.e.f. 01-01-92 without financial benefit.

Vide pay slip issued by Senior Accounts Officer, Ballarpur Area, his pay was fixed on 01-01-92 at Rs. 1905.

01-01-92—Rs. 1905.
01-01-93—Rs. 1985.
01-01-94—Rs. 2065.
01-01-95—Rs. 2145.

The workman has claimed that the pay scale was revised and in November, 1992 his pay scale should be as under:

01-01-92—Rs. 1350.
01-01-93—Rs. 1398.
01-01-94—Rs. 1446.
01-01-95—Rs. 1494.

He has submitted pay slip (Ex—W-I) showing his salary Rs. 1494 in October, 1995. In Ex—W-II his pay was shown as Rs. 2145. The workman says that according to revised scale the pay of Rs. 1494 was to be fixed at Rs. 2225 and from 01-01-96, his pay should have been Rs. 2305. So he is drawing Rs. 80 less per month from 01-01-96. The counsel for the management has represented that on 01-01-96, one increment of Rs. 80 was given to the workman and his pay was fixed Rs. 2225.

I have heard the counsels for the both parties and have perused the documents submitted by the parties. The counsel for workman argued that the workman was appointed as Clerk Gr-II but he was not given pay scale of Gr-III.

The counsel for management has argued that the workman was getting higher salary so he did not press for fixation of the salary at initial basic pay of Gr-III Clerk. His promotion to Gr-II would have been due after 3 years of service i.e. on 23-06-93, but the management took a sympathetic view due to its poor health and he was granted promotion in Gr-II w.e.f. 01-01-92. From the date of order 02-01-94 his pay was fixed in Gr-II clerk at Rs. 1905. On 01-01-95 his pay was Rs. 2145 and one increment of Rs. 80 was given to him and the basic pay was fixed at Rs. 2225 w.e.f. from 01-01-96. So there is no dispute concerning the fixation of his pay.

It is strange that when the workman had accepted the job of Typist from 23-06-90 as Clerk Gr. III, why his pay was not fixed in the pay scale of Clerk Gr-III.

If he was not due for promotion to Clerk Gr-II on 01-01-92 how again the management regularised him as Clerk Gr-II from the back date i.e. 01-01-92. The order for fixing his basic pay in minimum of the pay scale of Gr-II was passed by the Personal Manager vide order No. WCL-BA-GM-PER-7763 dated 11-11-95 (Ex-M8).

It is admitted by both the parties that B. R. Rao did not move any application to the Senior Account Officer, Ballarpur Area, that his pay was wrongly fixed and one more increment is due to him.

The counsel for the workman admitted that the workman did not approach any officer of the Accounts Department of WCL for fixation of his pay from 01-01-96 and he directly approached the Assistant Labour Commissioner to raise the dispute.

In the above circumstance this is the matter of the fixation of pay of one individual. The dispute is not at all an industrial dispute.

In:

Bombay Union of Journalists and others.

and

The 'Hindu' Bombay and others.

The Honourable Supreme Court has held in 1960-I page 110 that the individual dispute can be distinguished from the industrial dispute. The individual dispute cannot assume the character of the industrial dispute unless the cause is supported by an appreciable number of employees in the same establishment. If there is only one individual dispute which was not supported by an appreciable number of employees, it cannot be termed as industrial dispute. Neither any resolution was passed by a number of workers to take up the issue with management nor the individual himself (B R Rao) approached the management for the settlement of his dispute, therefore this dispute cannot be considered an industrial dispute.

The Central Government Industrial Tribunals have been established to settle the disputes between the management and the workmen where the interest of a large number of employees is involved and the dispute is likely to cause any disturbance in the peaceful working of the establishment.

In these circumstances this dispute should have not been entertained by the Assistant Labour Commissioner and the Desk Officer of the Ministry of Labour should have referred this dispute to the Tribunal for adjudication as it was an individual dispute.

The counsel for the workman has submitted ruling 1994-HCLR-page-645 (Supreme Court), Bhagavan Sukhla versus Union of India & others. It is argued that the workman was not given the opportunity of hearing even when his pay was reduced and increment was not given to him.

I have considered this ruling. In view of the above ruling the workman should be given an opportunity of hearing by the management and the Senior Accounts Officer or the General Manager, Accounts should consider whether the workman is entitled to get Rs. 2305 from 01-01-96. It should also be considered as to why the pay of the workman was not fixed in Clerk Gr III from 23-06-90 when he joined as Clerk Gr-III under Medical Superintendent, Ballarpur Area as Typist.

The counsel for the parties have represented that from 01-07-96 the workman has been placed as Gr-I Clerk and he is drawing higher salary. The management of WCL in the above circumstances is directed to give an opportunity of hearing to the workman and consider his case for fixation of pay according to rules.

ORDIR

The workman was not given an opportunity of hearing by the management at the time of fixation of his pay. On 01-01-96. The management is therefore directed to hear the workman (B R Rao), Clerk, Sasti and fix his pay according to rules of WCL.

With the above directions the reference is disposed of. The workman will appear before the management within 3 months from the date of publication of this award in the gazette of India for hearing.

Dated. 25/07/01

B. G. SAXENA, Presiding Officer

नई दिल्ली, 17 अगस्त, 2001

का.आर. 2306.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ. सी. आई. के प्रबंधन के संबंध नियोजक और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/ श्रम न्यायालय जबलपुर के पचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-01 प्राप्त हुआ था।

[सं. नं—22012/436/95-आई आर (सी-II)]
पन पी केशवन, डैम्स्क अधिकारी

New Delhi, the 17th August, 2001

S.O. 2306—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal/Labour Court, Jabalpur, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of FCI and the workman, which was received by the Central Government on 16-8-2001.

JNo. L-22012/436/95-IR(C-II)

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

Case No. CGIT/LC/R/184/95

PRESIDING OFFICER : Shri K. M. Rai

Shri A. K. Verma,
Asstt Grade-II (Depot),
LIG-F-96,
Near Sadar Ka Bagicha
Shailendra Nagar,

Raipur (MP)
2668 GI/2001 11

Applicant

Versus

The Zonal Manager West,
Food Corporation of India,
Mistry Bhawan, D.W. Road,
Church gate, Mumbai
Sr. Regional Manager,
Food Corporation of India,
Chetak Bhawan,
Maharana Pratap Nagar,
Bhopal

Non-applicants

AWARD

Passed on this 6th day of August, 2001

The Government of India, Ministry of Labour vide order No. L-22012/436/95-IR(C-II) dated 26-9-96 has referred the following dispute for adjudication by this tribunal—

"Whether the action of the management of FCI in continuing Shri A. K. Verma, AG-II(D) on adhoc promotion from 30-3-77 to 2-9-88 and reverting back to his parent post as AG-III(D) and again promoting him from 13-10-89 as AG-II(D) on regular basis and not considering his seniority from the date of adhoc promotion i.e. from 30-3-77 is lawful and justified. If not, to what relief the workman concerned is entitled?"

2. The case for the workman is that he was promoted on adhoc basis as AG-II(D) w.e.f. 30-3-77 by the management and continued to occupy this post till 2-9-88. Thereafter he was reverted back to his parent post as AG-III(D) and again the management promoted him as AG-II(D) w.e.f. 13-10-89 on regular basis taking the zonal seniority into consideration. By this subsequent promotion the management did not consider the period of his adhoc promotion in fixing his seniority. He should have been deemed to be promoted on regular basis w.e.f. 30-3-77 only and not w.e.f. 13-10-89. He made several representations himself and through the Union to the management for considering his grievance, but his request was not considered by the FCI. Due to this refusal, the present dispute arose.

3. The workman further alleges that the management has contravened the provisions of his own rules and regulations in promoting him on regular basis w.e.f. 13-10-89 without considering the period of adhoc promotion given earlier. He continuously worked on promotion post for a considerable period of about 11 years and even then he was not given the prior seniority among the Assistants by the management. The order of reversion of the management is illegal and deserves to be quashed. He is entitled to be deemed to have been promoted w.e.f. 30-7-77 on regular basis and his seniority also should have been established accordingly in the graduation list of the Assistants. He is entitled to the monetary benefits of promoted post w.e.f. 30-3-77 till date.

4. The case for the management is that the promotions from AG-D(III) to category II are ordered by the Zonal office on the basis of Zonal Seniority. Due to urgent situation during 1977, regional office, Bhopal had effected some adhoc promotion in all categories of class III staff on the basis of Regional seniority then existing in MP region. The workman was therefore given adhoc promotion on 30-3-77 on the basis of regional seniority of MP region. Promotions amongst the class III staff are effected on the basis of seniority maintained in the zonal level as the Zonal Manager is the competent authority to promote the class-II staff. The seniority for considering promotion is maintained in the Zonal office. The West zone office of FCI consists of MP, Maharashtra, Gujarat and Goa. Since the work load in MP was considerable on account of procurement of rice and wheat the zonal office advised the regional office, Bhopal to give ad hoc promotion on regional seniority basis and as and when the promotion order on regular basis is issued by the Zonal office the officials promoted on adhoc basis are reverted to the original post. On this basis of ad hoc Zonal office, the workman was promoted on 26-3-77 as AG-II(D) purely on adhoc basis. This fact was mentioned in the order of promotion issued by the management to the workman. The adhoc promotion does not confer any right to higher seniority amongst the zonal seniority of the class III employees.

5. The management further alleges that the workman accepted the subsequent regular promotion on the basis of zonal seniority without any grievance. The workman was entitled to get regular promotion only during the year 1988 on the basis of zonal seniority and not w.e.f. 30-3-77 which was a stop gap arrangement by way of adhoc promotion. In view of all these facets, the workman is not entitled to a regular promotion w.e.f. 30-3-77 and seniority among class III employees on the basis of adhoc promotion as regional seniority given to him as a stop gap arrangement looking to the quantum of work for procurement of rice and wheat in the MP region. The management has given proper promotion to the workman w.e.f. 13-10-89. He is not entitled to any relief as claimed by him.

6. The following issues arise for decision in this case and my findings thereon are noted hereinbelow :—

1. Whether the management had illegally reverted the workman as AG-III (D) w.e.f. 2-9-88 from AG-II(D).
2. Whether the workman is entitled to get his seniority amongst the Asstt. Grade II (D) w.e.f. 30-3-77 on the basis of adhoc promotion given by the management.
3. Whether the workmen is entitled to the monetary benefits as claimed by him.
4. Relief and costs ?

7. Issues No. 1 & 2:

Admittedly the workman was promoted as assistant Grade II(D) vide order dated 26-3-77 Annexure-A on the basis of Regional Seniority purely on adhoc basis and he was allowed to continue till he was reverted as Assistant Grade III(D) vide order dated 2-9-88 on the basis of Regional seniority fixed by the management. The West Zone of ICI consists of states of MP, Maharashtra, Gujarat and Goa. The seniority of the employee of this zone was fixed by the management as per rules and therefore the workman was reverted to the original post of Asstt. Grade III in the year 1988. Subsequently he was given regular promotion as Assistant Grade II(D) w.e.f. 13-10-89 on the basis of zonal seniority fixed by the management. His seniority was accordingly fixed from the date of regional promotion only and not w.e.f. the date of adhoc promotion i.e. 30-3-77.

8. The workman contends that his seniority should be counted from the date of adhoc promotion i.e. 30-3-77 and not from the regular promotion w.e.f. 13-10-89 on the basis of zonal seniority. In this connection, the Supreme Court has held in SC cases, vol-4, 1990 Page 24 *Messoad Akbar Khan and others versus State of MP and others* that the seniority to be counted not from the date of initial stop-gap appointment but from the date of regular selection under the rules. If the initial appointment is not made accordingly to the rules, subsequent regularisation of an employee does not entitle him to the benefit of intervening service of seniority. In view of this pronouncement of the Supreme Court, the workman is not entitled to get his seniority counted from the date of adhoc promotion i.e. 30-3-77. He is entitled to the fixation of seniority only from the date of regular promotion amongst his zone as per zonal seniority vide order dated 13-10-89. The management has therefore not committed any error in fixing the seniority of workman as Assistant Grade II(D) w.e.f. his regular promotion i.e. dated 13-10-89 as per zonal seniority fixed by management according to rule. Issues No. 1 & 2 are answered accordingly.

9. Issue No. 3 :

In view of my finding given on issue No. 1 and 2 the workman is not entitled to any monetary benefits as claimed by him.

10. Issue No. 4 :

On the reasons stated above, it is held that the workman is not entitled to his seniority as Assistant Grade II w.e.f. 30-3-77 as claimed by him. He is entitled to his seniority as Assistant Grade II(D) on the basis of his regular promotion on seniority basis fixed by the management w.e.f. 13-10-89. The adhoc promotion of the workman shall not entitle

him to count his seniority w.e.f. 30-3-77. The management has rightly fixed his seniority as Assistant Grade II(D) on the basis of zonal seniority w.e.f. 13-10-89. He is not entitled to any monetary benefits at all.

II Copy of the award be sent to the Min'ty of Labour, Government of India as per rules

K. M. RAI, Presiding Officer

नई बिल्ली, 17 अगस्त, 2001

का.आ. 2307.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) ती भारा 17 के अनुसरण में, केन्द्रीय सरकार डल्लू, सी. एन्. के प्रवधान के मंत्रध नियोजक और उनके कार्यकारी के बीच, अन्वंत्र में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/थम व्यायालय नागपुर के पांचाट को प्रकाशित करनी है, जो केन्द्रीय सरकार को 16-8-2001 प्राप्त हुआ था।

[प. नं. 32012/122/98—ग्राही आर (सी-II)]
एन टी. कैम्पन, डेस्क अधिकारी

New Delhi, the 17th August, 2001

S.O. 2307.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Labour Court, Nagpur, as shown in the Annexure in the Industrial Dispute between the employees in relation to the management of WCL and their workman, which was received by the Central Government on 16-8-2001.

[No. L-22012/122/98-IR(C-II)]
N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NAGPUR

PRSFNT :

Shri B. G. Saxena, Presiding Officer.

REFERENCE No. CGIT : 77/2000

The Sub Area Manager, WCL

AND

Shri Prabhakar S. Pendam.

AWARD

The Central Government, Ministry of Labour, New Delhi by exercising the powers conferred by clause (d) of Sub Section (1) and Sub Section 2(A) of Section 10 of the Industrial Dispute Act, 1947 has referred this dispute for adjudication vide order No. I-22012/122/98-IR/CM-II) dated 28-1-1999 on following Schedule.

SCHEDULE

‘Whether the action of the management of New Majri Sub Area of WCL, Distt. Chandrapur in dismissing Shri Prabhakar Sitaram Pendam, Fx-Loader is legal and justified? If not, what relief the workman is entitled to?’

Prabhakar Sitaram Pandam had submitted statement of claim in C.G.I.T. Court No.-II at Mumbai on 12-4-99. He had claimed that he was working as Loader in New Majri, Sub Area of WCL Colliery No.-3, Distt. Chandrapur from 5-5-1982. Chargesheet was issued to him on 30-6-96 for this reason that he had been absent from duty from 1-3-95. His act therefore constituted misconduct under the provision of standing order 26.30 which is as under.

Absent from duty without sanctioned leave of sufficient cause for more than 10 days beyond 10 days after sanctioned leave.

This charge-sheet was issued on 30-3-1996 by colliery manager. The workman submitted his reply on 4-4-96 that he had gone to his village for his personal work. He met with an accident and felt ill several times due to which he could not report for duty.

On 15-4-1996 the enquiry started against him and Shri D.R. Bankar was appointed as Enquiry Officer. The first date of enquiry was fixed on 28-6-96 when the workman appeared with his co-worker Gopal Nanaji, the chargesheet was given to him and 5-7-1996 was fixed. On this date the workman told that his wife was ill and 13-7-1996 was fixed with his consent. On 13-7-1996 the workman and his defence representative did not appear. After that 28-1-1997 was fixed and workman attended the enquiry with the co-worker. He also submitted medical certificate for his illness from 1-3-1995 to 19-2-1996 and another medical certificate for his illness from 21-2-1996 to 27-1-1997. The enquiry was concluded on this day after recording the statement of workman and his defence representative who was co-worker i.e. Gopal Nanaji.

On 12-3-1997 the enquiry officer submitted his report that the charge against the workman has been proved. Show-cause notice was issued to the workman on 18-3-1997 and his services was terminated vide order dated 23-3-1997.

The workman has claimed his reinstatement with full back wages.

The management in written statement alleged that workman was given full opportunity during enquiry for cross examination of the witness of management and to submit his defence. The workman did not give any satisfactory explanation for his absence on duty from 1-3-1995 to the date of submission of chargesheet. He remained absent from more than one year, hence his service was terminated.

I have heard the union representative of the workman Shri S. R. Pendre and the representative of the management Shri D. C. Gupta. Both the parties have submitted their written arguments. They have also argued the case orally.

The statement of the workman, Prabhakar S. Pendam was recorded on 14-12-1999. In cross examination he admitted that he had received the charge sheet dated 30-3-1996, says that he was not present during enquiry on 5-7-1996, 13-7-1996 and 28-1-1997. He also admitted that he had received the report of the enquiry officer and his findings. He did not submit any reply of the enquiry report. He did not file any appeal against his dismissal. From the side of the management the statement of Kamta Prasad, Clerk, was recorded. He says that he had recorded the proceedings of enquiry on the dictation of enquiry officer.

The affidavit of Ganesh Desh Pandey the presenting officer of management was submitted by management on 3-2-2000. On 26-3-2001 the management represented that this witness be discharged. Management does not to produce him for cross examination.

The statement of D. R. Bankar enquiry officer, was recorded on 7-12-2000. He was cross examined by the representative of the union of the workman Shri S. R. Pendre. In cross examination he stated that on 5-7-1996 workman P.S. Pendam had attended the enquiry with his co-worker Gopal Nanaji. He has also mentioned in his affidavit that on 28-1-1997 the workman Prabhakar S. Pendam and his defence representative Gopal Nanaji were present. He had also enquired from the workman as to why he had not sent any intimation of his absence or sickness to the management. The workman has submitted two medical certificate in his defence. The explanation of the workman for his absence was not reasonable. He concluded the enquiry and submitted enquiry report. The workman has admitted that the show-cause notice was received by him. The workman did not reply of the show-cause notice and did not prefer to file any appeal against the order of the dismissal.

In view of the above circumstances it is established that the enquiry was conducted against the workman according to the principles of natural justice.

The finding of enquiry officer are based on the evidence on record and thus the finding of the enquiry officer are not perverse. The workman got full opportunity to submit his defence. He was also provided help of the co-worker, Gopal Nanaji. The workman could not give any satisfactory

explanation for his absence from duty for more than one year from 1-3-95. The medical certificate showing his illness from 1-3-95 to 19-2-96 does not bear any date. So it is not explained by the workman as to when he obtained medical certificate from doctor R.C. Matley. No reason is explained by the workman as to why he did not submit any medical certificate of his illness to the management from 1-3-95 to 19-2-96. This certificate shows that the workman was fit to join duty on 20-2-1996. It is therefore clear that medical certificate was obtained by the workman after 20-2-1996.

He did not join duty on 20-2-1996.

Again the workman obtained another certificate for illness from 21-2-1996 to 27-1-1997. He attended enquiry on 5-7-1996 and 28-1-1997. On 5-7-1996 the workman had represented that his wife is ill and so the enquiry proceedings were adjourned to 13-7-1996. Both the medical certificates show that the workman was suffering from Bronchitis. This is a common disease and the workman therefore could join his duties. He was not admitted in any hospital for his treatment. He also did not go to the hospital of WCL where he could get free treatment. In these above circumstances the enquiry officer has rightly disbelieved the above medical certificate. The charge against the workman is fully proved.

Now comes the question of punishment awarded to the workman.

The representative of the workman has argued that the punishment is disproportionate to the alleged misconduct. I have considered this argument also. The representative of the management has submitted that the workman remained absent from duty for about one year from 1-3-1995. During this period he had not intimated to the management that he was suffering from any disease. He did not move any application for leave. In these circumstances the punishment of dismissal from service was justified.

As I discussed above that the workman was given full opportunity to explain the reasons for his absence from his duty for more than one year, but the workman himself admitted that he had gone to his village for his personal work and did not turn up for his duty after 1-3-1995. He also admitted in his statement during enquiry that he had not moved any application to the management for his absence. He also did not submit any medical certificate for his illness before the submission of chargesheet. In these circumstances the dismissal of the workman from service is legal and justified.

ORDER

The action of the management of New Maji Sub Area of WCL, Distt. Chandrapur in dismissing Shri Prabhakar Sitaram Pendam, Ex-Loader is legal and justified.

The workman is not entitled to any other relief.

The reference is answered accordingly.

Dated : 6-7-2001.

B. G. SAXENA, Presiding Officer

नई दिल्ली, 22 अगस्त, 2001

का आ 2308—आंदोलिक विवाद अधिनियम, 1947 (1947 का 11) की धारा 17 के अनुसार में, केन्द्रीय सरकार डॉक्य मी. प.क. के प्रबंधन के सम्बद्ध नियोजकों प्रीर उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट आंदोलिक विवाद में केन्द्रीय सरकार आंदोलिक अधिकारण/अम न्यायालय ने 2001 के पंचांग को प्रकाशित करना है, जो केन्द्रीय सरकार का 21-8-2001 का प्राप्त हुआ था।

[म. नं. 22012/183/93-प्राई ग्राउ (भी-II)]
एन.पी.प्राप्ति, इन्स्ट्रक्शन अधिकारी

New Delhi, the 22nd August, 2001

S.O. 2508.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of WCL and their workman, which was received by the Central Government on 21-8-2001.

[No. L-22012/183/93-IR(C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

Case No. CGIT/LC/R/168/93

Presiding Officer : Shri K. M. Rai.

Shri Kishori,
Through the General Secretary,
M.P.K.K.M.P. (HMS),
P.O. Junnarco,
Distt. Chhindwara. Applicant.

Versus

The Manager,
Rakhikol Colliery,
PO Rakhikol,
Distt. Chhindwara. Non-applicant.

AWARD

Passed on this 1st day of August, 2001

1. The Government of India, Ministry of Labour vide Order No. L-22012/183/93-IR(C.II) dated 30th April, 1994 has referred the following dispute for adjudication by this tribunal—

“Whether the action of the management of Rakhikol Colliery, WCL, Kanhan Area, PO Rakhikol, Distt. Chhindwara in dismissing Shri Kishori S/o Pinno from services w.e.f. 23rd June, 1989 is justified ? If not, to what relief the worker is entitled to ?”

2. The case for the workman is that he continuously worked for 15 years in Rakhikol colliery of WCL w.e.f. 1975. He was served with a charge sheet of misconduct by the management and the departmental enquiry was conducted against him. He was not provided the copy of relevant documents relied on by the management. He was not properly served with the notice regarding the date of hearing before the Enquiry Officer. The enquiry officer did not give him adequate opportunity to defend his case properly before him. He was called in the office and his thumb impression was obtained on some documents for which he had no knowledge at all. The management illegally accepted the report of the Enquiry Officer and terminated his services w.e.f. 23-6-89. The order of termination is bad in law and therefore deserves to be quashed. He is entitled to reinstatement with back wages.

3. The case for the management is that the workman was a casual employee and designated as badji tub loader/temporary BPR. He was appointed on 23-2-82. Since the inception of his appointment, he was in the habit of remaining absent unauthorisedly from duty. He never continuously worked for 190/240 days in a calendar year and therefore he was not regularised. It was observed that he was absent continuously from duty w.e.f. 10-7-88 without any information or sanction of leave from the competent authority. A charge sheet dated 23-7-89 was therefore served on him and he submitted his reply to the charges on 31-3-89. The explanation was not found satisfactory by the management and therefore the departmental enquiry was conducted against him. During the course of enquiry, he was given all relevant documents to defend his case. He was given ample opportunity by the Enquiry Officer to participate in the Enquiry proceedings. He cross examined the prosecution witnesses and set out his defence before the Enquiry Officer. The adequate opportunity was given to him by the Enquiry Officer to defend his case in an effective manner. The Enquiry Officer after considering the entire material on record, held the charges proved against him. The Disciplinary Authority accepted this report and terminated his services after due consideration. The Departmental Enquiry was conducted in a just and fair manner and therefore the order of termination passed by the management against the workman does not require any interference. The workman is not entitled to any relief as claimed by him.

4. The following issues have been framed in this case and my findings thereon are noted hereinafter :—

1. Whether the enquiry is just, proper and legal ?
2. Whether the management is entitled to lead evidence before this tribunal ?
3. Whether the charges of misconduct are proved on the facts of the case ?
4. Whether the punishment awarded is proper and legal ?
5. Relief and costs ?

5. Issue Nos. 1 and 2 : It has been held by this tribunal on 6-2-96 that the Departmental Enquiry conducted by the management against the workman is just and proper. The management is not required to lead any evidence to prove the alleged misconduct of the workman. In view of this findings, Issue Nos. 1 and 2 needs no consideration at all.

6. Issue Nos. 3 and 4 : From the enquiry papers, it appears that the charge sheet was served on the workman and he had submitted his reply to the charges. His reply was not found satisfactory and therefore the management thought it proper to hold the DE against him regarding the alleged misconduct. The Enquiry Officer was appointed who issued the notice to the workman who participated in the enquiry. This notice was served on him. The workman also appeared before the Enquiry Officer on 2-4-89. The workman participated in the enquiry proceedings and cross examined the prosecution witnesses to prove his defence. The Enquiry Officer gave the ample opportunity to the workman to prove his defence. No

pre-judice has been calced to him. After the careful consideration of the entire material on record, the Enquiry Officer held the charges proved against the workman. The report of the Enquiry Officer does not appear to be perverse at all. This report is based on sound reasoning and is supported by the evidence available in the enquiry proceedings. This court is not legally authorised to reappreciate the evidence before the Enquiry Officer in such case. At the same time this court cannot sit as a court of appeal over the order of disciplinary authority. In view of all these facts, I find that the misconduct of the workman has been properly proved from the evidence available in the enquiry proceedings. The Enquiry Officer has committed no legal error in holding the charges proved against the workman. It is therefore held that the charge of misconduct has been properly proved against the workman. Issue No. 3 is answered accordingly.

The workman appears to be habitual absentee causing loss of production to the coal industry. Such worker does not deserve any leniency as far as the punishment of removal from service is concerned. The Disciplinary Authority has imposed the proportionate penalty of dismissing him from service which does not require any interference in the instant case. Issue No. 4 is answered accordingly.

7. Issue No. 5 : On the foregoing reasons, it is held that the management had rightly dismissed the workman from service w.e.f. 23-6-89. The workman is not entitled to reinstatement with back wages as claimed by him. The reference is accordingly answered in favour of the management and against the workman.

8. Copy of the award be sent to the Ministry of Labour, Government of India as per rules.

K. M. RAI, Presiding Officer

नई दिल्ली, 22 अगस्त, 2001

का.आ. 2309.—श्रीद्योगिक विवाद अधिनियम, 1947

(1947 का 14) की धारा 17 के प्रत्युम्भण में, केन्द्रीय सरकार एम.ई.सी.एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट श्रीद्योगिक विवाद में केन्द्रीय सरकार श्रीद्योगिक अधिकरण/थ्रम, न्यायालय, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-8-2001 को प्राप्त हुआ था।

[सं. एल-22012/217/93-प्राई आर (सी-II)]

प.न.पी. केशवन, डेस्क अधिकारी

New Delhi, the 22nd August, 2001

S.O. 2309.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Labour Court, Jabalpur, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SECL and their workmen, which are received by the Central Government on 21-8-2001.

[No. L-22012/217/93-JR(C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, JABALPUR

Case No. CGIT/LC/R/228/93

Presiding Officer, Shri K. M. Rai.
Shri Ram Dhani, Son of Vishal,
Ticket No. 1485, Ex-loader of
Kotma Colliery, SECL,
Shahdol. Applicant

Versus

The Sub Area Manager,
Kotma Sub Area,
SECL, Bilaspur. Non-applicant

AWARD

Passed on this 6th day of August, 2001

1. The Government of India, Ministry of Labour vide order No. L-22012/217/93-IR, C-II dated 22-10-93 has referred the following dispute for adjudication by this tribunal :—

“Whether the action of the Sub Area Manager, Kotma Sub Area of SECL, P.O. Kotma colliery in dismissing Shri Ramdhani S/o Vishal, Loader T. No. 1485 from company services w.e.f. 30-6-89 is legal and justified? If not, to what relief the workman is entitled to?”

2. Neither the workman nor any office bearer of the Union appeared before this tribunal when the case was called on for hearing on 6-8-2001 till 3 P.M. Hence proceeded ex parte against the workman.

3. In view of the above said facts, it appears that the workman is not interested in pursuing his claim. It is therefore held that no dispute exists between the parties in the present case.

4. On the above said reasons, No Dispute Award is passed. It is further held that the workman is not entitled to get any relief as claimed by him.

5. Copy of the award be sent to the Ministry of Labour, Government of India as per rules.

K. M. RAI, Presiding Officer

नई दिल्ली, 22 अगस्त, 2001

का.आ.— 2310: श्रीद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के प्रत्युम्भण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट श्रीद्योगिक विवाद में केन्द्रीय सरकार श्रीद्योगिक अधिकरण/थ्रम, न्यायालय, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-8-2001 को प्राप्त हुआ था।

[सं. एल-22012/260/92-प्राई आर (सी-II)]

प.न.पी. केशवन, डेस्क अधिकारी

New Delhi, the 22nd August, 2001

S.O. 2310.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of WCL and their workman, which was received by the Central Government on 21-8-2001.

[No. L-22012/260/92-IR(C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

CASE NO. CGIT,LC/R/167/95

Presiding Officer, Shri K. M. RAI

Smt. Sushila Bai & Smt. Bolli Bai,
C/o. Shri K. K. Mishra,
Gandhi Hospital,
Pathakhera,
Distt. Betul (MP). Applicant.

Versus

The General Manager,
WCL, Pathakhera,
Distt. Betul. Non-applicant.

AWARD

Passed on this 3rd day of July, 2001

1. The Government of India, Ministry of Labour vide order No. L-22012/260/92-IR (C-II) dated 19-9-95 has referred the following dispute for adjudication by this tribunal :

“Whether the action of the management of WCL, Pathakhera Area, Distt. Betul in terminating the services of Smt. Sushila Bai and Smt. Bolli Bai is legal and justified ? If not, to what relief the concerned workman is entitled ?”

2. The case for the workman is that they worked in the employment of WCL as worker on daily wages basis w.e.f. 1983 to 1987. They were paid the wages from Pathakhera mine No. 2 and their attendance was being recorded regularly by the management. They used to sign the relevant attendance register

also. They demanded regularisation of service and therefore their services were illegally terminated by the management in the year 1987. They were neither given any statutory notice nor retrenchment compensation prior to termination of their service in violation of the provisions of Section 25-F of the I.D. Act 1947. They had continuously worked for 4 years in Pathakhera Mine of WCL and even then they were not regularised by the management. Their termination order is absolutely illegal and therefore deserves to be quashed. They are entitled to reinstatement with back wages.

3. The case for the management is that the workmen were neither employed by the WCC in Pathaphera coal mine nor paid any wages for performing their duty as a worker. No relationship of employer and employee ever existed between the parties. They were not given any appointment order by the management. They had worked for 9 days in the employment of contractor Shri Ganesh Jha who was awarded a contract work for preparations of grounds for conducting annual sports meet. They never worked in the employment of the management. Their contention is wrong that they had worked continuously for 4 years w.e.f. 1983 to 1987 in Pathakhera Mine No. 2 of WCL. They were not in the employment of management and therefore the question of terminating the services does not arise. The workmen were not required to be served with the statutory notice nor any retrenchment compensation was required to be paid by the management according to the provisions of Sec. 25-F of I.D. Act, 1947. The workmen are not entitled to reinstatement with back wages as alleged by them.

4. The following issues arise for decision in this case and my findings thereon are noted hereinafter :

1. Whether the workmen were employed as temporary worker on daily wage basis by the management and continuously worked w.e.f. 1983.
2. Whether the management illegally terminated their services in the year 1987.
3. Whether the workmen are entitled to reinstatement with back wages.
4. Relief and costs ?

5. Issue No. 1.—The contention of the workman is that they were employed directly by the management in the year 1983 and they continuously worked till 1987. They were paid wages regularly by the management of PK, II Mines of WCL on daily wage basis. The workmen have not been able to produce any written appointment order issued by the management to prove that they were employed in the year 1983 as daily paid workers. For the appointment of workers the vacancies are notified by the management and the names are sponsored

through local employment exchange. The candidates are interviewed by the appointment committee and after succeeding in the test, the appointment order is issued to the successful candidates. In the present case, no such formalities had been observed in appointing the workmen. In such a case, the workmen cannot be said to have been given appointment according to the provisions of rules in respect thereof. Without observing these rules no person can claim any right to the post for which he claims to have been directly appointed on daily wage basis. In such a circumstance, it is not possible to hold that the workmen were employed by the management of PK. II Mines of WCL in the year 1983. The management has specifically stated that the workmen were never employed by the management and therefore the relationship of employer and employee does not exist between the parties. Their contention is that once Shri Ganesh Jha was awarded a contract work for preparation of grounds for conducting athletic meet. The said contractor had maintained the wagesheet Exhibit M.I in which the workmen have been shown to have worked for 9 days and the contractor had paid the wages to them. The workmen did not work in the employment of management but in the employment of contractor only. The workmen have not been able to challenge the entry of Exhibit M.I by producing any documentary evidence. This wage sheet Ex. M.I clearly establishes this fact that the workmen were employed by the contractor and he had paid wages to them for the work they did. The workmen had not produced the copies of attendance registers maintained by the management to prove that they were regularly performing their duty in the mines w.e.f. 1983 to 87. In the absence of this document, it is not possible to hold that the workmen had actually worked in PK. II Mines during the said period. On the contrary Ex. M.I goes to prove that they had worked with the contractor Shri Ganesh Jha for a few days only. The workmen had also not been able to get the relevant documents produced in the court by the management to prove that the relationship of employee and employer existed between the parties. In the absence of documentary evidence, oral evidence of the workmen does not appear to be satisfactory to prove their claim of being employed by WCL in PK II mines in the year 1983. In view of the absence of the evidence on record, it is held that the workmen were never employed by the WCL in PK. II mines. Issue No. 1 is answered accordingly.

6. Issue No. 2.—In view of my finding given on issue No. 1, the question of termination of the services of the workmen does not arise at all as they were never employed by WCL. This issue is answered in negative.

7. Issue No. 3.—In the light of the above said findings the workmen are not entitled to reinstatement with back wages as they have no right in this. This issue is answered accordingly.

8. Issue No. 4.—On the reasons stated above, it is held that the relationship of employer and employee does not exist between the parties in this

case. The workmen are not entitled to reinstatement with any other monetary benefits. They are not entitled to any relief as claimed by them. The reference is accordingly answered in favour of the management and against the workmen.

9. Copy of the award be sent to the Government of India, Ministry of Labour as per rules.

K. M. RAI, Presiding Officer

नई दिल्ली, 22 अगस्त, 2001

का.आ. 2311.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसर मे, केन्द्रीय सरकार एफ.सी.आई. के प्रबंधनत्र के सबध नियोजकों और उनके कर्मकारों के बीच, अरुवंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/थम न्यायालय जबलपुर के पंचाट को प्रकाशित करना है, जो केन्द्रीय सरकार को 21-8-2001 को प्राप्त हुआ था।

[म. नं-22012/432/96-द्राई आर (सी-II)]

पन. पी. केशवन, ईम्प्र अधिकारी

New Delhi. the 22nd August, 2001

S.O. 2311.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of FCI and their workmen, which was received by the Central Government on 21-8-2001.

[No. L-22012/432/96-IR(C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

Case No. CGIT/LC/R/136/96

Presiding Officer : Shri K. M. RAI

Shri K. R. Jadhav,
Asstt. Grade II (D),
D-66, Sector-II,
Devendra Nagar,
Raipur (MP).

... Applicant.

Versus

The Zonal Manager West,
Food Corporation of India,
Mistry Bhawan, D. N. Road,
Church gate,
Mumbai.

Sr. Regional Manager,
Food Corporation of India,
Chetak Bhawan,
Maharana Pratap Nagar,
Bhopal. . . Non-applicants.

AWARD

Passed on this 6th day of August, 2001

The Government of India, Ministry of Labour vide order No. L-22012/432/96-IR (C-II) dated 7696 has referred the following dispute for adjudication by this tribunal :

“Whether the action of the management of FCI in continuing Shri K. R. Jadhav, AGIID on adhoc promotion from 30-3-77 to 2-9-98 and reverting back to his parent post as AGIII (D) and again promoting him from 13-10-89 as AGII(D) on regular basis and not considering his seniority from the date of adhoc promotion i.e. from 30-3-77 is lawful and justified ? If not, to what relief the workman concerned is entitled ?”

2. The case for the workman is that he was promoted on adhoc basis as AGII(D) w.e.f. 30-3-77 by the management and continued to occupy this post till 2-9-88. Thereafter he was reverted back to his parent post as AGIII(D) and again the management promoted him as AGII(D) w.e.f. 13-10-89 on regular basis taking the zonal seniority into consideration. By this subsequent promotion the management did not consider the period of his adhoc promotion in fixing his seniority. He should have been deemed to be promoted on regular basis w.e.f. 30-3-77 only and not w.e.f. 13-10-89. He made several representations himself and through the Union to the management for considering his grievance, but his request was not considered by the FCI. Due to this refusal, the present dispute arose.

3. The workman further alleges that the management has contravened the provisions of its own rules and regulations in promoting him on regular basis w.e.f. 13-10-89 without considering the period of adhoc promo-

tion given earlier. He continuously worked on promotion post for a considerable period of about 11 years and even then he was not given the proper seniority among the Assistants by the management. The order of reversion of the management is illegal and deserves to be quashed. He is entitled to be deemed to have been promoted w.e.f. 30-3-77 on regular basis and his seniority also should have been established accordingly in the gradation list of the Assistant. He is entitled to the monetary benefits of promoted post w.e.f. 30-3-77 till date.

4. The case for the management is that the promotion from RGD (III) to category II are ordered by the Zonal office on the basis of zonal seniority. Due to urgent situation during 1977, regional office, Bhopal had effected some adhoc promotion in all categories of class III staff on the basis of Regional seniority than existing in MP region. The workman was therefore given adhoc promotion on 30-3-77 on the basis of regional seniority of MP region. Promotion amongst the class III staff are effected on the basis of seniority maintained in the zonal level as the Zonal Manager is the competent authority to promote the class III staff. The seniority for considering promotion is maintained in the Zonal office. The West zone office of FCI consists of MP, Maharashtra, Gujarat and Goa. Since the work load in MP was considerable on account of procurement of rice and wheat, the zonal office advised the regional office, Bhopal to give adhoc promotion on regional seniority basis and as and when the promotion order on regular basis issued by the Zonal office the officials promoted on adhoc basis be reverted to the original post. On this basis of advice of Zonal office, the workman was promoted on 26-3-77 as Ag. II (D) purely on adhoc basis. This fact was mentioned in the order of promotion issued by the management to the workman. The adhoc promotion does not confer any right to higher seniority amongst the zonal seniority of the class III employees.

5. The management further alleges that the workman accepted the subsequent regular promotion on the basis of zonal seniority without any grievance. The workman was entitled to get regular promotion only during the year 1989 on the basis of zonal seniority and not w.e.f. 30-3-77 which was a stop gap arrangement by way of adhoc promotion. In view of all these facts, the workman is

not entitled to a regular promotion w.e.f. 30-3-77 and seniority amongst class III employees on the basis of adhoc promotion as per regional seniority given to him as a stop gap arrangement looking to the quantum of work for procurement for rice and wheat in the MP region. The management has given proper promotion to the workman w.e.f. 13-10-89. He is not entitled to any relief as claimed by him.

6. The following issues arise for decision in this case and my findings thereon are noted hereinafter :—

1. Whether the management had illegally reverted the workman as AG III (D) w.e.f. 2-9-88 from AG-II(D) ?
2. Whether the workman is entitled to get his seniority amongst the Asstt. Grade II(D) w.e.f. 30-3-77 on the basis of adhoc promotion given by the management ?
3. Whether the workman is entitled to the monetary benefits as claimed by him ?
4. Relief and costs ?

7. Issues No. 1 & 2.—Admittedly the workman was promoted as assistant Grade II (D) vide order dated 26-3-77 Annexure. A on the basis of Regional Seniority purely on adhoc basis and he was allowed to continue till he was reverted as Assistant Grade III(D) vide order dated 2-9-88 on the basis of Regional seniority fixed by the management. The West Zone of FCI consists of states of MP, Maharashtra, Gujarat and Goa. The seniority of the employees of this zone was fixed by the management as per rules and therefore the workman was reverted to the original post of Asstt. Grade III in the year 1988. subsequently he was given regular promotion as Assistant Grade II(D) w.e.f. 13-10-89 on the basis of zonal seniority fixed by the management. His seniority was accordingly fixed from the date of regional promotion only and not w.e.f. the date of adhoc promotion i.e. 30-3-77.

8. The workman contents that his seniority should be counted from the date of adhoc promotion i.e. 30-3-77 and not from the regular promotion w.e.f. 13-10-89 on the basis of zonal seniority. In this connection, the Supreme Court has held in SC cases. vol-4, 1000 Page 24 Masood Akhtar Khan and others versus State of MP and others that the

seniority to be counted not from the date of initial stop-gap appointment but from the date of regular selection under the rules. If the initial appointment is not made accordingly to the rules, subsequent regularisation of an employee does not entitle him to the benefit of intervening service of seniority. In view of this pronouncement of the Supreme Court, the workman is not entitled to get his seniority counted from the date of adhoc promotion i.e. 30-3-77. He is entitled to the fixation of seniority only from the date of regular promotion amongst his zone as per zonal seniority vide order dated 13-10-89. The management has therefore not committed any error in fixing the seniority of workman as Assistant Grade II(D) w.e.f. his regular promotion i.e. date 13-10-89 as per zonal seniority fixed by management according to rules. Issues No. 1 & 2 are answered accordingly.

9. Issue No. 3.—In view of my finding given on issue No. 1 and 2, the workman is not entitled to any monetary benefits as claimed by him.

10. Issue No. 4.—On the reasons stated above, it is held that the workman is not entitled to his seniority as Assistant Grade II w.e.f. 30-3-77 as claimed by him. He is entitled to his seniority as Assistant Grade II(D) on the basis of his regular promotion on seniority basis fixed by the management w.e.f. 13-10-89. The adhoc promotion of the workman shall not entitle him to count his seniority w.e.f. 30-3-77. The management has rightly fixed his seniority as Assistant Grade II(D) on the basis of zonal seniority w.e.f. 13-10-89. He is not entitled to any monetary benefits also.

11. Copy of the award be sent to the Ministry of Labour, Government of India as per rules.

K. M. RAI, Presiding Officer

नई दिल्ली, 22 अगस्त, 2001

का.आ. 2312—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू सी एल. के प्रबंधतंत्र के मंबंध नियोजकों और उनके कर्मकारों के बीच, अन्वंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/थ्रम व्यायालय जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-8-2001 को प्राप्त हुआ था।

[सं. एल-22012/80/86-डी.-III(बी)]

एन. पी. केशवन, डैम्स्क अधिकारी

New Delhi, the 22nd August, 2001

S.O. 2312.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (11 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Labour Court Jabaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of WCL and their workman, which was received by the Central Government on 21-8-2001.

[No. L-22012'80|86-D.III(B)]

N. P. KESHAVAN, Desk Officer
ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM LABOUR
COURT, JABALPUR

CASE NO. CGIT LC|R|141 87

PRESIDING OFFICER, SHRI K. M. RAI

Shri Bishram Shahu,
S/o. Patiram Shahu,
Ex. mechanical Fitter,
Rakhikol Colliery,
C/o. D. N. Tripathi,
Damua colliery, PO Damua,
Distt. Chhindwara.

Applicant

Versus

The Manager,
Rakhikol Colliery,
WCL, PO Rakhikol Colliery,
Distt. Chhindwara. . Non-applicant.

AWARD

Passed on this 17th day of July, 2001

1. The Government of India, Ministry of Labour vide order No. L-22012 80 86-D III (B) dated 20-8-87 has referred the following dispute for adjudication by this tribunal :—

“Whether the action of the management of Rakhikol colliery of WCL, PO Rakhikol, distt. Chhindwara in dismissing Shri Bishram Shahu Mechanical fitter from services w.e.f. 31-5-85 is justified? If not, what relief the worker is entitled to?”

2. The case for the workman is that on 7-1-53 he was appointed as fitter helper in Datala West colliery and there after he was promoted as haulage khalasi. After the nationalisation of the collieries he was transferred to Damua colliery. After sometime he was again transferred to Raklikol colliery.

by the management of Kanhan area in the year 1982. On 15-10-84, he was served with the chargesheet by the Manager, Rakhikol colliery, Kanhan area of WCL while working as mechanical fitter. The chargesheet was served under the provisions of certified standing orders which was applicable to Rakhikol colliery. Prior to the nationalisation of Rakhikol colliery, it was owned by the Shivax C. Combata and Co. Pvt. Ltd. After the nationalisation of the coalfields, the management of Rakhikol colliery was handed over to the WCL on 1-5-75. In view of this fact the service condition of the workman will not be governed by the provisions of standing orders of the Shivox C. Combata Co. Pvt. Ltd. Rakhikol colliery of Kanhan area. The chargesheet served on him under the provisions of the said standing order is illegal.

3. The workman further alleges that prior to the nationalisation of the colliery Datala Coal field was under the private ownership of Shaw Wallace Co. Ltd. At that time the Shaw Wallace Co. had got their standing orders certified which was called Pench Wailey coal Co. Ltd. and Amalgamated coal fields Ltd. Standing orders. After the nationalisation, WCL has not got its certified standing orders for Datala West colliery. The service condition of the applicant in Datala colliery is therefore governed by the said standing orders of Shaw Wallace Co. The termination order served on the applicant by the management according to the provisions of standing orders of Datala West colliery is illegal as the chargesheet of misconduct was served on him according to the standing orders of Shivox C. Combata Co. P. Ltd. It is further alleged by the workman that he was suffering from Hemiplegia (left) and was advised by the Doctor for complete rest till 25th Dec. 84 and thereafter he was declared fit for his duty w.e.f. 26-12-84. Due to this illness he remained absent from duty for 10 days. He had sent an application to the management on 29-8-84 regarding the sickness. He reported to his duty and submitted the medical certificate to the management but he was not allowed to join his duty. During the enquiry proceeding, he was not served with the notice to attend the proceedings before the Enquiry Officer. He was not given ample opportunity to defend his case before the Enquiry Officer. The management did not supply him the report of the Enquiry Officer to prefer appeal against the order of termination before the competent

authority. The domestic enquiry was held in his absence which is against the principles of natural justice. The order of termination in writing was also not served on him. The management also did not pay any compensation prior to termination of his service and therefore violated the provisions of Sec. 25-F of I.D. Act, 1947. The management also did not comply with the provisions of Sec. 25-G of the I.D. Act, 1947. The Enquiry Officer also did not submit any enquiry report to the Disciplinary Authority as required under the rules. In view of all these facts, the order of termination passed by the management is illegal which deserves to be quashed. He is entitled to reinstatement with back wages and other monetary benefits.

4. The case for the management is that the workman deliberately absented himself from duty w.e.f. 29-8-84 to 15-11-84 without any intimation to the management. The chargesheet therefore was framed against him on 15-11-84 for continuous absence from duty. The workman did not submit his reply after receiving the chargesheet within the stipulated period of time. The Departmental Enquiry was therefore conducted against him. The Enquiry Officer issued notice to the workman to appear before him on 30-1-85. The workman deliberately did not appear before the Enquiry Officer who was therefore forced to proceed ex parte against him. The enquiry was therefore held ex parte against the workman and the report was submitted to the disciplinary authority for needful action. The Disciplinary Authority accepted the report and terminated the services of the workman.

5. The management further alleges that the workman deliberately remained absent from duty without intimating the management. He also did not submit the application to the management for obtaining permission to remain absent from duty as well as he also did not submit any medical certificate to prove his sickness. The absence of the workman from duty caused the loss of production in the mine. The Departmental enquiry was therefore held against him in a just and proper manner and order of dismissal passed against him is just and proper. The workman is not entitled to any relief as claimed by him.

6. The following issues have been framed in this case and my findings thereon are noted hereinafter :—

1. Whether the domestic departmental enquiry is proper and legal ?
2. Whether the punishment awarded is proper and legal ?
3. Whether the management is entitled to lead evidence before this tribunal ?
4. Whether the termination action taken against the workman is justified on the facts of the case ?
5. Relief and costs ?

7. Issue No. 1&3.—On 16-4-95, this tribunal has held the Departmental Enquiry as improper and therefore the management was directed to lead evidence on the charge of misconduct against the workman. In view of this finding, Issue No. 1 and 3 need no further consideration at all.

8. Issue No. 2 & 4.—From the perusal of record and the claim of the parties to this dispute, it appears that the workman was dismissed from service w.e.f. 31-5-85 on the misconduct of remaining absent for the period of 10 days without any intimation and obtaining permission from the management. This charge of misconduct does not appear to be so serious which warrants termination of service. In my opinion the punishment does not appear to be proportionate in the circumstance of the case. The lesser punishment shall meet the ends of justice as the workman has attained the age of superannuation in the light of his appointment in the year 1952. I therefore convert the order of termination of service into compulsory retirement from the date he attained the age of superannuation. The period of absence from duty of the workman shall be treated on duty only for the purposes of pensionary benefits. The workman shall be entitled to the pensionary benefits after the date of his superannuation as per rules. Issues No. 2 & 4 are answered accordingly.

9. Issue No. 5.—On the above said reasons, it is held that the order of dismissal passed by the management against the workman on 31-5-85 is unjust and the punishment is disproportionate to the facts of the case. The order of termination from service is therefore

converted into the retirement from service from the day he attained the age of superannuation. The period of his absence from duty shall be treated on duty for the purposes of pensionary benefits. He shall be entitled to draw pension and other benefits as per rule from the day he was to retire from service. He shall be paid the arrears of pension and other benefits according to rules within the period of 6 months from the date of award.

10. Copy of the award be sent to the Ministry of Labour, Government of India as per rules.

K. M. RAI, Presiding Officer

तर्फ़ दिल्ली, 17 अगस्त, 2004

का. आ. 2313.—प्रौद्योगिक विद्यालय अधिनियम, 1947
(1947 का 11) को धारा 17 के अनुभरण भ, केन्द्रीय सरकार मेंकुरा त्रैनिंग के प्रबन्धन के सबध नियोजको प्रीत उनके कर्मान्वय के द्वीन, श्रवन्वध में निर्दिष्ट प्रौद्योगिक विवाद में केन्द्रीय सरकार प्रौद्योगिक अधिकरण/श्रम स्थ.यात्रा जबलपुर के प्रयाट को रक्षित करनी है जो केन्द्रीय सरकार को 16-8-2001 प्राप्त हुआ था ।

[स. पल-41011/22/89-डी-2(वी)/प्राईमार (वी-I)]

अजय कुमार, डैम्क अधिकारी

New Delhi, the 17th August, 2001

S.O. 2313.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Railway and their workman, which was received by the Central Government on 16-8-2001.

[No. L-41011/22/89-D.2(B)/IR(B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, JABALPUR

Case No. CGIT/LC/R/252/89

Presiding Officer : Shri K. M. Rai.

Versus

The Assistant Engineer,
Central Railway,
Agra Cantt. ...Non-Applicant.

AWARD

Passed on this 16th day of July, 2001

1. The Government of India, Ministry of Labour vide order No. L-41011[22]89-D-2(B) dated 5-12-89 has referred the following dispute for adjudication by this tribunal—

“Whether the action of the management of Assistant Engineer (M) Central Railway, Agra Cantt. in not providing employment to Shri Noor Islam, S/o Buddu Khan and Shri Sitaram S/o Shri Govind Das, MRCL after 19-2-87 and 16-7-86 and whether his termination from service is justified ? If not, to what relief the workmen is entitled to?”

2. The case for the workmen is that they were employed as casual labour by the management and after their continuous service for more than 240 days in a calendar year preceding the date of their termination, they attained temporary status as per rule. The management wrongly discontinued their employment w.e.f. 19-10-87 and 16-10-86 on the basis of submitting forged service record, to obtain employment in the Railways. Prior to termination of their service, they were neither served with one month's statutory notice nor they were paid retrenchment compensation according to the provisions of Sec. 25-F of the I.D. Act. The management has regularised the other junior casual workers and the workmen have been not regularised so far. The management did not make any enquiry regarding the validity of the service card submitted by the workmen. Their services have been illegally terminated by the management and therefore they are entitled to reinstatement with back wages.

3. The case for the management is that the workmen were informed to submit their service cards after being duly verified by the PWI to establish his claim for getting regularisation in the service of Central Railway. The workmen did not submit the service card after due verification. They discontinued to work themselves after receiving the said notice. The workman Noor Mohd. did not submit the verified service record from Morena and workman Sitaram did not submit his service card duly verified alleged to have been issued by the IOW, Bhopal. Their service cards were found to be ingenuine and therefore they cannot claim any regularisation on the basis of such forged document. They succeeded in getting the employment by submitting fake service records and therefore they are not entitled to get any relief on the basis of such forged document. Their claim deserves to be rejected.

4. The following issues have been framed for decision in this case and my findings thereon are noted hereinafter :—

1. Whether the domestic departmental enquiry is proper and legal ?
2. Whether the punishment awarded is proper and legal ?
3. Whether the management is entitled to lead evidence before this tribunal ?

4. Whether the termination action taken against the workmen is justified on the facts of the case?
5. Whether the workmen are entitled to get employment as per law?
6. Relief and costs?

5. Issue Nos. 1, 2 & 3 : From the perusal of records it appears that no domestic enquiry was conducted against the workmen. In such a circumstance, the validity of Departmental enquiry was conducted against the workmen. In such a circumstance, the validity of Departmental Enquiry is no required to be adjudicated in this case. Parties have been allowed to lead evidence to prove their respective claim. Hence these issues need no consideration at all.

6. Issues No. 4 & 5 : The workmen claimed to have been appointed as casual worker by the Railway Administration and subsequently they were issued genuine service cards. The Railway Administration has challenged the validity of these service cards submitted by the workmen for getting regularisation. The workmen were given opportunity to submit the verified service cards from the Issuing Authorities, but they failed to submit their verified service cards to the Railway Administration for getting regularisation of their service. On the contrary they discontinued to work after receiving the notice from the Railway administration for submitting verified casual service record in order to get regularisation. TOW Bhopal and PWI Morena have not issued any appointment order to the workmen as per the information submitted by the said authorities of the Railway Administration. It was the burden on the workman to prove that they were issued the proper casual service cards by the concerned authorities of the Railway Administration. They have failed to discharge this burden by adducing proper evidence in this respect. On the other hand, it is proved from the evidence on record that the workmen secured employment by submitting fake service card which cannot be the basis for getting regularisation as claimed by them. In view of this fact, they have no legal claim of right to the post as alleged by them. They are therefore not entitled to get reinstatement with back wages and other monetary benefits. Issues no. 4 & 5 are answered accordingly.

7. Issue No. 6 : On the reasons stated above, it is held that the workmen are not entitled to get any relief in the instant case. The reference is accordingly answered in favour of the management and against the workmen.

8. Copy of the award be sent to the Ministry of Labour, Government of India as per rules.

K. M. RAI, Presiding Officer

नई दिल्ली, 17 अगस्त, 2001

का. आ. 2314.—श्रीधर्मिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसारण में, केन्द्रीय सरकार नोर्डन रेलवे के प्रबंधनन्तर के गंभीर नियोजकों श्रीज उनके कर्मकारों के बीच, अनवध में निर्दिष्ट श्रीधर्मिक विवाद में केन्द्रीय सरकार श्रीधर्मिक अधिकरण/श्रम व्यावालय

लखनऊ के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2001 को प्राप्त हुआ था।

[म. प्रल-41012/13/99-आईआर (बी-ज)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 17th August, 2001

S.O. 2314.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court Lucknow as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Northern Railway, Hazratganj and their workman, which was received by the Central Government on 16-8-2001.

[No. L-41012/13/99-IR(B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

Presiding Officer : Rudresh Kumar

ADJUDICATION

I.D. No. 133/2000

Ref. No. L-41012/13/99-IR(B-1)

dated 11-5-2000

BETWEEN

The Divisional Organization Secretary,
Uttar Railway Karmchari Union, 283/63 Kha Garhi
Kanora (Premwati Nagar) P.O. Manaknagar
Lucknow (U.P.)-6
(in the matter of Hari Kishore Mishra)

AND

The Sr. Divisional Personnel Officer,
Northern Railway, Hazratganj,
Lucknow.

AWARD

By reference No. L-41012/13/99-IR(B-1) dated 11-5-2000, in the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of Sub-section (1) of Section 10 of I.D. Act, 1947 (14 of 1947), made over the industrial dispute between the Divisional Organization Secretary, Uttar Railway Karamchari Union Lucknow espousing cause of Hari Kishore Mishra and Sr. Divisional Personnel Officer, Northern Railway, Lucknow for adjudication. The reference is produced as under :

“Whether the action of Management of Northern Railway in not promoting Shri Hari Kishore Mishra as Electric Fitter Grade-II on the basis of examination result dated 11/3/1994 was legal and justified ? If not what relief the workman is entitled to ?”

The workman, Hari Kishore Mishra seeks promotion as Electric Fitter Gr-II on the basis of examination result dt. 11-3-94. The claim statement is silent about his appointment in Fitter Gr. III, the feeder post from which promotion is sought, on the basis of examination result. The management on the other hand, has clarified the position by stating that the workman Hari Kishore Mishra was initially engaged as substitute in 28-2-78 and later placed on the penal of the group 'D' in Steam Loco w.e.f. 28-8-80.

His name was placed at serial no. 143 of the penal in the scale of pay Rs. 196-232. He was promoted as Khalasi helper in scale of pay Rs. 210-290 w.e.f. 1-1-1984. He was again promoted as Diesel Fitter vide letter No. 155E/1-18, Diesel fitter dated 18-6-92. Admittedly, the workman was booked for the trade test for the post of highly skilled fitter in Nov. 1994 alongwith others. However, before the appointment on the basis of the above result could be made, a decision was taken on recommendation of the joint meeting of the unions and management, to redraw seniority in view of merger of Diesel Sheds of Mugalsarai and Lucknow. In view of the said decision, seniority list was drawn. Those senior to Hari Kishore Mishra were promoted. The management has denied that any employee junior to the workman was promoted.

Seniority claimed by the workman is based on test result dt. 11-3-94. The management denies that the test result is seniority list, to be treated basis for future promotions, rather it determined eligibility. The management on its own and as desired by this tribunal, filed seniority lists, copies of which were also delivered to the workman. From perusal of the list, it is clear that those promoted in Gr. II so far, were senior in filter cadre Gr. III. The only exception is Gaya Prasad whose date of promotion in Gr. III is mentioned 3-9-92 whereas, the date of promotion of the workman is 18-6-92. This anomaly is clarified in remark column that Gaya Prasad was appointed Khalasi helper on 27-4-83 and the workman about eight months later on 1-1-84. The seniority of Gaya Prasad was revised in view of the said position and he was given promotion on 21-6-95. S. K. Verma junior to the workman, though promoted in Gr. III on the same date i.e. 18-6-92, is still in Grade-III. The test result dt. 11-3-92 is not seniority list. After merger of Mugalsarai and Lucknow Diesel Sheds, seniority of the employees from both sheds were redrawn and formed basis of promotions.

The workman did not challenge the seniority list, in any proceeding before this dispute. Also, in this industrial dispute, he has not challenged correctness of the seniority list. Sole claim of his promotion is, based on test result sheet dt. 11-3-94, which cannot be treated to be seniority list. Test result sheet are not necessarily prepared on the basis of seniority. In any event, in face of the facts, that the seniority list, were redrawn copies of which were given to A|R workman, remained unchallenged, the claim of seniority on the basis of test result dated 11-3-94 is not justified.

The management has given full details of service of the workman in its written statement. The workman had not challenged stated facts of the written

statement in his rejoinder. In view of this situation, the factual position explained by the management has to be accepted. Result dt. 11-3-94 cannot be treated basis of seniority for purposes of promotion specially, when this result was not given effect, in view of merger of the employees of both Diesel Sheds Mugalsarai and Lucknow.

Accordingly, the action of the management not promoting Hari Kishore Mishra as Electric Fitter Grade-II on the basis of examination result dated 11-3-94 is legal and justified. The workman is not entitled to any relief.

Award accordingly.

LUCKNOW

8-8-2001.

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 17 अगस्त, 2001

का.आ।. 2315.—श्रीद्वारिगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नोंदिन रेलवे के प्रबंधनतत्र के मबद्दल विवादका श्रीग उनके कर्मकारों के बीच, ग्रन्तवंद में निर्दिष्ट श्रीद्वारिगिक विवाद में केन्द्रीय सरकार श्रीद्वारिगिक अधिकरण/थ्रम व्यायालय कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार का 16-8-2001 को प्राप्त हुआ था।

[सं. एल-41012/43/94-आईआर (वी -I)]
अजय कुमार, डिस्क अधिकारी

New Delhi, the 17th August, 2001

S.O. 2315.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Labour Court Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Northern Railway and their workman, which was received by the Central Government on 16-8-2001.

[No. L-41012/43/94-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SRI R. P. PANDEY, PRESIDING
OFFICER CENTRAL GOVERNMENT
INDUSTRIAL-CUM-LABOUR COURT SARVO-
DAYA NAGAR, KANPUR

Industrial Dispute No. 69 of 1995

In the matter of dispute between

The Zonal Working President
Uttar Railway Karanpahar Union
96, 196 Roshan Bajaj Lane
Lucknow.

AND

The Divisional Railway Manager,
Northern Railway Lucknow.

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its notification No. L-410124394-IR (B-I) dated 15-6-95 has referred the following dispute for adjudication to this tribunal—

“Whether the action of the management of Northern Railway Lucknow in refusing to pay arrears of salary in the scale of Rs. 1600-2660 w.e.f. 22-5-86 to 6-5-88 to Sri K. K. Puri, the then parcel supervisor and treat him promoted as Chief Parcel Supervisor with effect from 9-2-91 and pay him arrears in the scale of Rs. 2000-3200 from February, 1991 till he was actually promoted to the post is justified? If not, to what relief is the workman entitled to?”

2. The statement of claim has been filed on behalf of Sri K. K. Puri with allegation that Sri Puri was guard Grade A in the pay scale of Rs. 1400-2300 and was drawing pay at the maximum of Rs. 2300. Sri Puri subsequently being declared unfit for the post of guard Grade A Special was medically declassified and was absorbed on the post of Chief Parcel clerk with effect from 22-5-86. He accepted that post under protest. On the representation made by him he was given pay scale of Rs. 1600-2660 with effect from 2-5-86 but the benefit of that pay scale was given to him with effect from 6-5-88 when he took over charge on the post of Parcel Supervisor. The pay from 22-5-86 to 5-5-88 was not paid to him on the ground that he was given proforma promotion/absorption with effect from 22-5-86. Sri Puri made representation that he should be given benefit of pay scale of Rs. 1500-2660 with effect from 22-5-86 according to the railway rules but no heed was paid to his request. There was a vacancy on the post of Chief Parcel Supervisor with effect from February, 1991 on the retirement of Sri T. C. Tripathi, Chief Parcel Supervisor, Sultanpur. Sri Puri being the senior most was entitled to get promotion on that post but he was given promotion in the scale of Rs. 2000-3200 with effect from 9-12-91 merely 21 days before his retirement. It has been alleged that Sri Puri was entitled for difference of wages accrued to him from 22-5-86 to 5-5-88 and was also entitled to get promotion on the post of Chief Parcel Supervisor with effect from February, 1991. As the railway administration did not grant this benefit to him a dispute was raised on his behalf and the matter has been referred to this tribunal for decision. He has prayed for the grant of the aforesaid benefit to him.

3. The management has filed objection on the ground that after declassification Sri Puri Guard Grade A Special was given the post of Chief Parcel Clerk. He made representation and the matter was discussed between the General Manager Northern Railway and the Railway Mens Union in the permanent negotiation machinery and it was decided to give Sri Puri absorption after declassification in the pay scale of Rs. 1600-2660. But the benefit of that pay scale was given to him when he took over charge on that post. He was further promoted on Ad-hoc basis in the grade of Rs. 2000-3200 from 9-12-91. Sri Puri could not claim promotion from

back date or from the date when vacancy in the selection post occurred. It has been alleged that the claim is misconceived and liable to be rejected.

4. The workman examined himself as WW1 and filed a few documents in support of his case. The management did not examine any witness and did not file any document in support of its case.

5. I have heard the authorised representative for both the sides and have gone through the record of the case.

6. On behalf of the workman a letter of Divisional Railway Manager Lucknow, sent to the Assistant Labour Commissioner(C), Lucknow dated 16-11-92 has been filed. It shows that on the representation made by Sri Puri, he was absorbed in the grade of Rs. 1600-2660 with effect from 22-5-86. From the pleadings of the parties also it is established beyond doubt that Sri Puri was originally posted on the post of Chief Parcel Clerk and was absorbed on the post of Parcel Supervisor in the scale of Rs. 1600-2660 with effect from 22-5-86 because he was entitled to that grade from the date of absorption. The decision was taken in the meeting of permanent negotiation machinery in which the officers of the railway department and the office bearer of the union of Railway Employees participated. He was given benefit of this pay with effect from 22-5-86 but actually he was paid his salary when he took charge on the post of Parcel Supervisor and the arrears of pay from 22-5-86 to 5-5-88 were not paid to him. The concerned workman made a request that his pay in the pay scale of Rs. 1600-2660 should be given from 22-5-86 because he was entitled to that grade according to the decision taken by the railways and he should not be deprived of this benefit merely because the railway administration took decision at a late stage. The authorised representative for the management could not show me any provision under which the employee who is given promotion or absorption from a previous date in a higher pay scale shall not be entitled to get pay of that scale from the date of promotion/absorption. When the railway administration accepted absorption in the pay scale of Rs. 1600-2660 with effect from 22-5-86. It was the duty of the railway administration to pay him arrears of pay also in the same pay scale with effect from 22-5-86. As the absorption of Sri Puri in the scale of pay Rs. 1600-2660 was delayed due to the mistake and lapse on the part of railway administration. Sri Puri cannot be made to suffer on account of mistake or error of the railway administration. Had the railway administration taken decision in time Sri Puri must have been given that pay scale from the date of absorption. This is the reason that though the railway administration gave him pay scale of Rs. 1600-2660 from 22-5-86 but benefit of that pay scale was not given to him from that day and his pay was fixed at the maximum of that pay scale on 6-5-88, treating him to have been promoted/Absorbed in the pay scale of Rs. 1600-2660 with effect from 22-5-86. The action of the railway administration on this point appears to be unjustified. The claim of Sri Puri appears to be just and fair. I, therefore, hold that Sri K. K. Puri was entitled to get the benefit of pay scale of Rs. 1600-2660 with effect from 22-5-86 and he

should be paid arrears of salary for the period from 22-5-86 to 5-5-88 after fixing his pay in the pay scale of Rs. 1600-2660 with effect from 22-5-86.

7. The case of the workman is that the post of Chief Parcel Supervisor was vacant with effect from 9-2-91 but he was given actual promotion on that post w.e.f. 9-12-91. It has been alleged that he should have been given promotion on that post from 9-2-91 when the vacancy on that post occurred. It has been alleged that Sri K. K. Puri was senior most Parcel Supervisor on that date. There is no dispute about this fact but no employee of any department can claim benefit of promotion from the date of vacancy. He can claim benefit of promotion when actually he was promoted. He was actually promoted on that post on 9-12-91 on ad hoc basis. I do not find any justification for giving any direction to the railway administration to promote Sri Puri from 9-2-91. I do not find any illegality in the action of the railway administration in giving him promotion on the post of Chief Parcel Supervisor with effect from 9-12-91.

8. In view of findings recorded above I hold that Sri K. K. Puri is entitled to get arrears of his salary for the period 22-5-86 to 5-5-88 in the pay scale of Rs. 1600-2660. The railway administration is directed to fix his pay in the pay scale of Rs. 1600-2660 with effect from 22-5-86 and to pay him arrears accordingly for the period 22-5-86 to 5-5-88 within a period of three months from the date of publication of this award in the official gazette.

9. Reference made to this tribunal is decided accordingly.

R. P. PANDEY, Presiding Officer.

नई दिल्ली, 17 अगस्त, 2001

का.आ. 2316 —श्रीदीगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नोर्थ रेलवे के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट श्रीदीगिक विवाद में केन्द्रीय सरकार श्रीदीगिक अधिकरण/श्रम व्यायालय, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-8-2001 को प्राप्त हुआ था।

[स. एल-41012/61/92/X/आईआर (डीयू) (बी-1),

एल-41012/144/93-आईआर (बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 17th August, 2001

S.O. 2316.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Northern Railway and their workman, which was received by the Central Government on 16-8-2001.

[No. L-41012/61/92/X/IR(DU)/(B-I),

L-41012/144/93-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SRI R. P. PANDEY, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SARVODAYA NAGAR, KANPUR Industrial Dispute No. 16 of 1993 and 42 of 1995

In the matter of dispute between—

The President (Sri K. N. Soni),
Railway Employees Union,
118/78, Kaushalpuri,
Kanpur.

AND

1. The Divisional Railway Manager,
Northern Railway
Allahabad-211001

2. The Area Manager,
Northern Railway,
Kanpur Central Station,
Kanpur-208001.

1. Central Government, Ministry of Labour, New Delhi, vide its notification given below has referred the following disputes for adjudication to this Tribunal for adjudication :

1. Notification No. 41012/61/92/X/IR(DU) dated 18-3-93—Whether the action of the management of Northern Railway through Divisional Railway Manager, Allahabad and Area Manager, Northern Railway, Kanpur, in not granting additional increment for undergoing tubectomy operation and issuing order of transfer from Kanpur to Allahabad to Shri Sarvar Alam, Enquiry and Reservation Clerk, Kanpur Central, is legal and justified ? If not, to what relief the workman is entitled ?

2. Notification No. 41012/144/93-IR(B-I) dt. 28-3-95—Kya Mandal Rail Prabandhak, Uttar Railway, Allahabad tatha Mukhya Kshetriya Adhikari, Uttar Railway, Kanpur, ke dwara Sri Sarvar Alam, Enquiry-cum-Reservation Clerk, Kanpur ko duty pradan na karna, Mah October, 1991 se vatan na dena aur use deya special increment na dena nyayochit hai ? Yadi nahi to sambandhit karmkar kis anutosh ka haqdar hai ?

2. Both the aforesaid cases have been consolidated together on the request made by the parties and are based on common facts, hence they are being disposed of by one award.

3. The case of Sarvar Alam as set up in the statement of claim filed in the aforesaid cases is that he was selected alongwith others as goods clerk in grade 260—430 through Railway Service Commission, Allahabad and he alongwith others joined as such on 17-5-77. He alongwith others was deputed to work as Enquiry-cum-Reservation Clerk (hereinafter referred to as ERC for the sake of brevity). Although he was entitled to get the pay scale of Rs. 330—560 from the date of initial appointment but that grade

was given to him w.e.f. 24-2-81 alongwith persons who had joined the service with him. Employees of Northern Railway, Kanpur Central, formed a Trade Union which was got registered under Trade Union Act, 1926 in the name of Railway Employees Union, Kanpur and Sarwar Alam was elected as General Secretary of the same and was continuing as such till the statement of claim was filed before this tribunal.

4. It has been alleged that he was doing pairvi of the labour cases before this tribunal which was not like I by officers of the railway department. The management decided to victimise the concerned workman. The Divisional Railway Manager, Allahabad vide its appeal dated 3-2-82 announced incentive containing grant of one advance special increment and special facility of posting on desired station to the railway employees who or whose spouse underwent vasectomy/tubectomy operation under family planning programme. Keeping in view of the aforesaid scheme the wife of concerned workman under went tubectomy operation after having three children on 12-1-88 in a hospital of U.P. Government that is Dufferin Hospital, Kanpur. The aforesaid appeal of Divisional Railway Manager became service condition of the workman, hence the concerned workman was entitled to get one special increment on account of tubectomy operation of his wife and also entitled to continue to be posted at Kanpur Central as he desired of being posted at this station. The management of railway through Divisional Personnel Officer, Northern Railway, Allahabad, vide its letter dated 15-4-91 promoted 10 ERCs grade 1200—2040 in the grade of 1400—2300. The name of the concerned workman appeared at serial No. 3. All persons mentioned in the aforesaid promotion order were offered their posting in the promotional grade at the same station where they had been working earlier whereas the concerned workman was transferred to Allahabad in promotional grade. This act of the management was arbitrary discriminatory and also against the service conditions applicable to the concerned workman. The aforesaid act of the management of the railway was mala fide and was done with a view to victimise the concerned workman. The concerned workman made a representation on 26-4-91 against the impugned order dated 15-4-91 but the same was rejected illegally by the then Area Manager on 7-5-91 as Divisional Railway Manager alone was competent to dispose off that representation. Aggrieved by the aforesaid action of the management, the workman moved an application under Section 19 of the Central Administrative Tribunal Act 1985, before the Central Administrative Tribunal, Allahabad Bench. The Central Administrative Tribunal vide its order dated 17-5-91 disposed off the application of the concerned workman and directed the management to consider the representation of concerned workman dated 26-4-91 and to decide the same on merits. It was also directed that if the concerned workman has not been relieved from the present station he shall not be relieved till disposal of his representation. The representation dated 26-4-91 of the concerned workman was disposed of by the Divisional Railway Manager who rejected the same. The concerned workman on 16-9-91 reported his sickness to the Assistant Station Master of Kanpur Central and referred the workman to the Railway doctor. The rail-

way doctor examined the concerned workman and advised him bed rest. Late, on the Railway doctor referred the concerned workman to J. K. Cancer Institute, Kanpur, on 19-9-91. The doctor of Cancer Institute after examining the concerned workman advised bed rest. The concerned workman applied to the management for leave on medical grounds through his applications dated 24-9-91, 25-10-91 and 18-11-91 respectively which were not received by the management. Then he sent the same by registered post. The doctor of the Cancer Institute examined the concerned workman on 20-12-91 and found him fit for his duties with effect from 21-12-91 at Kanpur. The doctor issued a certificate to this effect. The workman presented fitness certificate to the Chief Reservation Supervisor on 20-12-91 and requested to permit him to join lines with effect from 21-12-91 at Kanpur Central but he refused to receive the fitness certificate. On 21-12-91 he again contacted Sri B. D. Verma who was working as Chief Reservation Supervisor on that date in place of Sri Manohar Lal but his joining report was refused. Thereafter, the concerned workman sent his fitness certificate and joining report by registered post to the higher authorities of management at Kanpur Central. With effect from 21-12-91 the workman was reporting for his duty in the office of Enquiry and Reservation, Kanpur but neither any work was being taken from him nor he was allowed to sign the attendance register. The concerned workman was getting his pay from pay office at Kanpur till September 1991 but from October to December, 1991 no wages have been paid to him. Although leave for the period from 16-9-91 to 21-10-91 has been granted to him. It has been alleged that he was paid salary for the period January 1992 and February 1992 but no work was taken from him. It has been alleged that aforesaid promotion/transfer order dated 15th April, 1991 was not issued by the competent authority and was therefore, illegal. It has also been alleged that it was hit by mala fide and arbitrariness. It is alleged that promotion-cum-transfer order has been passed with a view to victimise the concerned workman. It has further been alleged that the management of railway administration has neither suspended him nor has terminated his service yet no salary was being paid to him although he was ready to serve as ERC at Kanpur Central. It has also been alleged that although he was entitled to get special increment under family planning programme as mentioned above but he has been deprived of the same. It has further been alleged that if the concerned workman did not join on the promotional post he should have been allowed to work on the lower post at Kanpur Central but the management of railway administration has not done so with an intention to penalise the concerned workman. On the basis of these allegations the concerned workman has prayed that impugned order of transfer dated 15-4-91 be held as illegal and be quashed and an additional advance increment be granted in favour of the concerned workman w.e.f. 12-1-88 in terms of the service condition of the concerned workman by virtue of appeal dated 3-2-82 regarding implementation of family planning programme and the workman be deemed to be on duty and posted at Kanpur Central in the grade of 1400—2300 and a direction be

issued to the management to pay him salary, bonus with effect from October 1991 till date.

5. In both the cases written statement has been filed by the management. It has been alleged that the concerned workman was not complying with the transfer order dated 15-4-91 and he remained absent from duty since 1991, hence he was not entitled to get salary for the period when he was unauthorisedly absent from duty. It has been alleged that the management of railway administration has no objection to grant additional special increment to the concerned workman for his wife under going tubectomy operation as admissible under rules provided the workman Sarwar Alam submitted all declarations, certificates which were sought from him by the letter issued from the office of Divisional Railway Manager dated 18th March, 1992. The workman did not submit papers till date hence the management was handicapped in granting him additional special increment to him. The management admitted that he was appointed as goods clerk on 17-5-77 at Kanpur and was granted the grade of 1200—2040 on 24-2-81. On 18-4-91 the concerned workman was promoted in his own channel of promotion as ERC in the grade 1400—2300 and was transferred and posted at Allahabad on administrative ground in terms of promotion/transfer order dated 18-4-91. Sarwar Alam was spared from Kanpur for attending his duty at Allahabad as per terms of his engagement. It was obligatory for him to join the place of transfer in compliance of transfer/promotion order, but instead of joining at Allahabad he filed case O.A. No. 493 of 1991 before CAT Allahabad against the transfer order. That case was finally disposed off on 17-5-91 in which a direction was issued to the Divisional Railway Manager to make disposal of the representation of the concerned workman dated 26-4-91 on merits. That representation of the concerned workman was disposed off by the Divisional Railway Manager on merits and the order was communicated to the concerned workman but he did not obey the directions given in the order. He was spared and relieved from Kanpur after communication of the order of rejection of appeal but he did not make compliance of transfer order. It has been alleged that once his original application moved before Central Administrative Tribunal challenging the validity of the transfer order was finally disposed off without granting the relief of quashing the transfer order it was not open to the concerned workman to raise the industrial dispute again against the same transfer order before this Tribunal under the Industrial Disputes Act. It has been alleged that Hon'ble Supreme Court of India has held in several cases that if the transfer order is made on administrative ground any court or tribunal should not interfere on transfer matters. It has been alleged that as the concerned workman did not attend his duties after he was transferred from Kanpur to Allahabad at Allahabad and was remaining absent since then he was not entitled to get any salary for the period when he was absent from duty. It has been alleged that the appeal of Divisional Railway Manager in the year 1982 in respect of the family planning programme was made for the year 1982 only to achieve the target of family planning scheme for the year 1982 and not afterwards. It was the privilege which

was given to the local employees by local authority in the year 1982 only. The concerned workman is alleged to have opted for family planning in the year 1988, when no such privilege was given or issued in the year 1988, hence the concerned employee cannot get any benefit of the appeal in the year 1982. The service condition of the railway employees are regulated by Railway Establishment Manual and Railway Establishment Code and also by subsidiary statutory rules which have the force of the law and appeal made by Divisional Railway Manager, Allahabad in 1982 was irrelevant in case of transfer order passed in 1991. The workman was asked to file certificate and declarations as required under the relevant Government Orders for granting him special increments for adopting family planning programme but he did not furnish the same. The management has no objection in granting the same if relevant papers are filed by the workman before the competent authority. It has been that the case of the workman is misconceived and is liable to be dismissed.

6. The concerned workman filed rejoinder in both the cases in which he has reiterated his statement made in the claim. He has further alleged that if he did not join the place of his posting at Allahabad, he should have been accommodated on the lower post at which he was working at Kanpur Central in terms of rules applicable to the employees of the railways.

7. The concerned workman examined and re-examined himself as W.W.I in both the cases and filed a number of documents in support of his case. The management examined Manohar Lal as M.W.I in both the cases and filed a number of documents in support of its case.

8. I have heard Sarwar Alam the concerned workman who was present in person and the authorised representative for the management and have gone through the record.

9. The first and most important question to be decided in the case is whether the action of the management of Northern Railway through Divisional Railway Manager Allahabad in transferring Sri Sarwar Alam from Kanpur to Allahabad on promotion on the post of ERC was legal and justified or not. The case of the workman is that the order dated 15-4-91 whereby he was transferred from Kanpur to Allahabad is illegal because it has not been signed by Divisional Railway Manager Allahabad who was competent to transfer him from Kanpur to Allahabad. He has argued that the power which vested in Divisional Railway Manager could not be delegated to the Divisional Personnel Officer, Northern Railway, Allahabad who was subordinate to him. He has placed reliance on the notification dated 18-11-70 issued by the Government of India as contained in annexure Ext. W-842. After going through the notification as contained in Ext. W-842, I find that the direction contained in the aforesaid notification relates to the notice and the orders passed by the Disciplinary Authority. That shows that the authority which has passed the orders of removal, dismissal or compulsory retirement should himself sign the order and that power cannot be delegated to the subordinate authorities and such orders should not

be signed by the subordinate authorities. It is notable that the disciplinary actions are taken by the Disciplinary Authority under statutory rules which are known as Railway Servant (Disciplinary & Appeal) Rules 1968 which rule is mentioned in Ext. W-84.

9. The transfer orders are not passed under any statutory rules and such power could be delegated to the subordinate officers also and such orders can be issued under the signatures of the subordinate officers also and such transfer orders cannot be held illegal merely because it has not been signed by the officer, who has powers to transfer. The directions as given in the aforesaid circular dated 18-11-70 are of no help to the concerned workman in this case.

10. It has been contended by the concerned workman that Divisional Railway Manager Allahabad issued an appeal dated 3-2-82 and terms of that appeal became service conditions of the employees of the railway working under Divisional Railway Manager Allahabad and in that appeal it was provided that if an employee or his spouse adopted family planning programme and went for vasectomy or tubectomy operation as the case, he shall be given place of posting of his choice. He has contended that as his wife underwent tubectomy operation as provided in that appeal he was entitled to continue at Kanpur Central as ERC even on promotion and his transfer from Kanpur to Allahabad being in violation of the aforesaid appeal dated 3-2-82 was illegal. On the other hand the authorised representative for the railway administration has argued that

order of Divisional Railway Manager dated 3-2-82 was made only to achieve the target in the year 1982 and it was not relevant for the subsequent years and such appeal could not regulate the service conditions of the employees of the railway administration for all the times to come. He has argued that service condition of the railway employee are regulated by Railway Establishment Manager Railway Establishment Code and also by subsidiary and statutory rules which have the force of law and the appeal made by Divisional Railway Manager in the year 1982 was irrelevant for this case. It is notable that the concerned employees Sri Sawai Alau is an employee of the railway administration and thus he is a Government Servant under Union of India. The service conditions of the government servants are regulated by statutory rules, subsidiary rules and by such administrative instructions which are issued by the Government of India from time to time. Any order issued by Divisional Railway Manager in the form of appeal or order cannot regulate the service conditions of the employees of the railway administration because employees of railway administration are not servants of Divisional Railway Manager but they are servants of Government of India and the Government of India could regulate the service condition of its employee either by making rules or by issuing administrative instructions in the form of Government of India's Order. I, therefore, fully agree with the contentions of the authorised representative for the management that the appeal made by Divisional Railway Manager in 1982 as contained in the Ext. W-1 filed by the workman has got no statutory force or legal force and the impugned order of transfer passed by Divisional Railway Manager in the year 1991 can not be said to be illegal merely because it did not consider the

terms and conditions given in appeal Ext. W-1 and it was in violation of the terms and conditions as mentioned in the appeal dated 3-2-1982 as contained in Ext. W-1. Even if it is held that the aforesaid appeal was in force even in the year 1991, that could not affect the validity of the transfer order passed by the Divisional Railway Manager in the year 1991 by which the concerned workman was transferred from Kanpur Central to Allahabad.

11. The concerned workman has argued that impugned order of transfer dated 15-4-1991 was discriminatory against him and was, therefore, illegal because it forced other employees to continue at the same station even on promotion where they were working earlier whereas the concerned workman has been shifted from Kanpur Central to Allahabad without any valid reason. The transfer order indicates that it has been passed in administrative interest. The concerned workman has also conceded that transfer orders may be passed in the interest of administration. It has come in evidence that the concerned workman was appointed as clerk at Kanpur Central Station on 17-5-1977 and continued to work there till 1991 when he was transferred to Allahabad. Thus he continued more than for about 15 years at one station. There is no evidence that all those who were promoted with him also continued at their place of posting for about 15 years. In these circumstances as continued in the impugned order dated 15-4-1991 can not be said to be discriminatory and cannot be held to be illegal on this ground.

12. The concerned workman has argued that the impugned order of transfer dated 15-4-1991 is illegal because it has been passed with malafide intention and with a view to victimise him. There is absolutely no evidence on record to prove that Divisional Railway Manager or even Divisional Personnel Officer under whose orders the aforesaid promotion transfer has been effected had any grudge or ill will against the concerned employee. By the impugned order the concerned workman was promoted and transferred from Kanpur to Allahabad after he was there for about 15 years at one station. The concerned workman has produced evidence to show that he appeared as representative in some cases in Central Government Industrial Tribunal cum Labour Court at Kanpur which were filed against the railway administration. I do not think that his appearance as representative of the workmen could be a ground for declaring the aforesaid transfer as illegal especially when the concerned workman has been promoted from a low grade to higher grade by the competent authority. I, am therefore, not prepared to believe the contention of the concerned workman that the transfer order has been passed with malafide intention to cause harassment to the concerned workman.

13. When the impugned order of transfer promotion dated 15-4-91 was received by the concerned workman he made an appeal to the Divisional Railway Manager Allahabad. A copy of that appeal dated 26-4-91 is Ext. W-4 on the record. In paragraph 1 of this appeal the concerned employee Sri Sawai Alau has written that the Divisional Personnel Officer in Railway vide his order dated 15-4-91 has promoted number of staff in grade 1400—2300 on the post of ERC and he was very thankful to Divisional Railway Manager as he has

promoted him also with other employees mentioned in the order. He only made a prayer that he should be allowed to continue at Kanpur. His that appeal was rejected by Divisional Railway Manager. This shows that the concerned workman knew very well that Divisional Personnel Officer Northern Railway Allahabad was competent to pass promotion order as well as transfer order on behalf of the Divisional Railway Manager and that is why he was thankful to the Divisional Railway Manager for promoting him in the higher grade in accordance with the impugned order. He has no where said that his promotion order was illegal or invalid or was not passed by the competent authority. He has always made an attempt to say that he should be allowed to continue at Kanpur and should not be shifted to Allahabad. It is notable that promotion, transfer orders have been signed and issued by one and the same authority. If the promotion order according to the concerned workman is valid it is not open for him to challenge the validity of the transfer order which has been passed by the same officer who had passed the promotion order. The promotion as well as transfer a.e contained in the impugned order dated 15-4-91. From this point of view also the contention of the concerned workman that the transfer order dated 15-4-91 is invalid appears to be without any substance and cannot be accepted.

14. The authorised representative for the railway administration has argued that transfer orders which have been made on administrative grounds cannot be interfered by courts except it is vitiated by malafide. He has drawn my attention towards the law laid down by the Hon'ble Supreme Court of India in State of Madhya Pradesh versus S. S. Kourav and others, AIR 195 SC 1056 as under :

The courts or Tribunals are not appellate forums to decide on transfers of officers on administrative grounds. The wheels of administration should be allowed to run smoothly and courts and Tribunals are not expected to interdict the working of the administrative system by transferring the officers to proper places. It is for the administration to take appropriate decision and such decisions shall stand unless they are vitiated either by malafides or by extraneous consideration without any factual background foundation. When, as in this case, the transfer order is issued on administrative grounds, the court cannot go into the expediency of posting an officer at a particular place.

15. In Union of India versus N. P. Thomas 1993 1 LLJ, 1063 (SC), the Hon'ble Supreme Court of India has held as under :—

The Government employee holding a transferable post has no vested right to remain in a particular place of posting itself and cannot claim, as a matter of right, the posting in that place even on promotion.

In Dr. Shabib Ahmed versus General Manager, ONGC, Dehradun, 2000 Lab. I. C. 1380 the Hon'ble High Court of Allahabad has held that transfer is

an exigency of service and the transfer order passed on administrative considerations cannot be interfered with if no malafide is shown.

I have already held above that the impugned order of promotion and transfer is not vitiated by malafide. I, therefore, hold that the impugned order of transfer which have been passed by the competent authority on administrative grounds cannot be interfered with by this tribunal.

16. In view of above consideration I do not find any illegality in the order of transfer dated 15-4-1991 passed by the railway administration against the concerned employee and such order of transfer cannot be interfered with by this tribunal in this case.

17. Next question to be decided in this case is whether the concerned workman is entitled to get special increment under family planning programme because his wife underwent tubectomy operation on 12-1-88 and the action of the management in denying the same to him is justified or not. From the facts mentioned by the concerned workman in his statement of claim goes to show that when his wife underwent tubectomy operation on 12-1-88 in accordance with the family planning programme, the concerned workman was entitled to that benefit of one special increment. The management has also admitted in its written statement that railway administration has no objection in granting the special increment to the concerned workman provided he files the certificate of tubectomy operation, declaration about his eligibility undertaking as required in the Government of India's G.O. dated 4-12-79 and other orders issued from time to time. Record shows that Sri Sarwar Alam submitted a medical certificate to the railway administration showing tubectomy operation of his wife on 12-1-88, but the declaration, the certificates and undertaking as were required to be filed by him do not appear to have been filed by him before the competent authority of the railway administration. The Railway Administration has filed the copy of letter dated 18-3-92 sent by Divisional Railway Manager, Northern Railway Allahabad to Sri Sarwar Alam. In this letter a direction was given to Sarwar Alam the concerned employee that the certificate of tubectomy operation issued by medical authorities as well as relevant certificates alongwith the application for granting the special increment should be sent to him so that the case of the concerned workman may be processed for grant of increment. There is nothing on record to show that even in compliance of that letter the concerned workman sent the certificate of tubectomy operation issued by the medical authority alongwith other relevant certificates with the application for granting him special increments indicating his eligibility for the same. The concerned workman has not filed copy of such application indicating that he had made any such application showing his eligibility alongwith other relevant certificates to the competent authority. If the concerned workman submits an application as desired in the letter dated 18-3-92 sent by DRM Northern Railway Allahabad to him alongwith certificate of tubectomy operation issued by medical authorities and other relevant certificates as required under the relevant Government of India's order the Divisional

Railway Manager, Northern Railway, Allahabad] Competent Authority shall take decision within a period of two months from the date of receipt of such papers from the concerned employee, if such decision is not taken within the time allowed by this tribunal it will be presumed that the concerned workman is entitled to get the benefit of the additional special increment from due date and shall become entitled to get arrears from the management of Northern Railway, Allahabad.

18. The next question which has been referred to this tribunal for decision is whether the action of railway administration in not giving duty to Sarwar Alam ERC at Kanpur and not giving salary from October, 1991 onwards is justified or not.

19. I have already held above that the impugned order of transfer dated 15-4-91 is not illegal and it has been passed by competent authority. The concerned workman has been promoted in the higher scale for joining at Allahabad. The concerned workman did not go to Allahabad to join on the post of his promotion under the impression that the impugned order of his transfer was illegal and without jurisdiction. The concerned workman in his statement dated 20-4-2000 made on oath stated that had the impugned order of transfer been passed by the competent authority he must have gone to Allahabad to join the post on promotion. This shows that the impugned order of transfer was well within the knowledge of the concerned workman from the very beginning against which he had gone before Central Administrative Tribunal and when the directions given by the Central Administrative Tribunal, his appeal was rejected by Divisional Railway Manager on 14-10-91 and the same was communicated to him by the Area Manager, Kanpur under his letter dated 16-10-91 and when he was relieved by Chief Reservation Supervisor Kanpur under his order made on 23-10-91 the concerned workman did not go to Allahabad merely under the mistaken notion that the impugned order of transfer was not passed by the competent authority and was illegal. I have already held above that the impugned transfer, promotion order is a valid order and has been passed by the competent authority. In these circumstances, the concerned workman must have obeyed the order of transfer after his appeal was rejected by the Divisional Railway Manager and he was relieved by Chief Reservation Supervisor Kanpur, keeping in view the order of Area Manager Kanpur, dated 16-10-91. All these letters were sent to the concerned workman at his home address given by him through registered post. In these circumstances there is every reason to believe that these letters sent by Chief Reservation Supervisor as well as by Area Manager, Kanpur by registered post must have reached the concerned employee at his address. The mere interested statement of Sri Sarwar Alam that he did not receive those letters is not sufficient to rebut the presumption of service of those letters on him which can be drawn under the legal provisions. Letter sent by Area Manager to the concerned employee dated 16-10-91 is Ext. M-2 on record. The letter dated 23-10-91 sent by Chief Reservation Supervisor Kanpur Central to the concerned employee by registered post is Ext. M-4 on record. By the letter dated 16-10-91 Ext. M-2, the Area Manager had directed Sri Sarwar Alam

to carry out transfer order as his appeal dated 26-4-91 was rejected by the Divisional Railway Manager. Keeping in view this letter Chief Reservation Supervisor had issued the relieving order to the concerned workman on 23-10-91. The aforesaid orders were also communicated to the concerned employee on 29-10-91 when the concerned employee was present before Assistant Labour Commissioner (Central) Kanpur. This fact is borne out from the letter dated 12-11-91 sent by Aslam Mahmud Area Manager, Northern Railway, Kanpur Central, Kanpur, addressed to Sri Om Prakash, Senior Divisional Personnel Officer, Northern Railway, Allahabad which has been filed by the management and which is on the record. Thus it is evident that the concerned workman even after knowing that his appeal was rejected he did not join the place of his posting on transfer. If he was relieved from Kanpur Central keeping in view the result of his appeal and if he was directed by Area Manager Kanpur Central to make compliance of the promotion order dated 15-4-91 there was no justification for the railway administration for permitting Sri Sarwar to join his duties at Kanpur. As he was absent from duty after his appeal was dismissed by the Divisional Railway Manager against transfer order he was not entitled to get salary of the period when he did not work at all either at Kanpur Central or at Allahabad. Thus the action of the railway administration in not permitting him to join his duties at Kanpur Central after he was transferred from Kanpur to Allahabad under the orders of Divisional Railway Manager, Allahabad and not paying him salary for the period when he did not work at all cannot be said to be unjustified.

20. The concerned workman argued that when he did not proceed to Allahabad for joining the post of promotion, after his appeal was rejected by Divisional Railway Manager, he should have been allowed to work on the post of lower scale at Kanpur, treating the concerned employee to have refused his promotion in the higher grade. After going through the record of the case, I do not find any force in this contention. If the appeal of the concerned employee against the transfer order was rejected by Divisional Railway Manager, the concerned workman made a number of representations to the Area Manager, Kanpur, for permitting to work at Kanpur, but in none of them he expressed his desire to work on the post in the lower grade at Kanpur Central. On the other hand in all those applications including the application/appeal made to the D.R.M. on 26-4-91, he requested that he should be allowed to join duty at Kanpur Central Station in the promotional grade at Kanpur. Even in his prayer made in the statement of claim he has requested this tribunal to issue direction to the management to permit him to work in the promotional grade at Kanpur and not in the lower grade/scale. This shows that the concerned workman was treating himself to have been promoted in the higher trade under orders dated 15-4-91 and was claiming that salary and he always intended to work on promotional post at Kanpur. In these circumstances railway administration was not in a position to permit him to join duty on the post of lower scale specially when he never expressed his desire to forego his promotion. I, therefore, do not find any substance in this argument of the concerned workman.

21. The next question to be decided in this case is as to what relief can be granted to the concerned employee in this case. As Sri Sarwar Alam did not join his duties at Allahabad in compliance of the transfer/promotion order dated 15-4-91, under mistaken notion that it was an illegal order. I think it proper that he may be permitted to join the promotional post at Allahabad within a period of thirty days from the date of publication of this award. If he joins at Allahabad in compliance of that order, the management is directed to permit him to join his posting at Allahabad as ERC in the promotional grade. The management is further directed to pay him salary of the promotional post from that date as revised from time to time. Admittedly he was granted leave for the period from 16-9-91 to 21-10-91 by the competent authority. He has already received salary of the period before 16-9-91. He is entitled to get leave salary of that period that is from 16-9-91 to 21-10-91.

22. The concerned workman submitted medical certificate and applied medical leave for the period from 16-9-91 to 20-12-91. It is on the basis of that medical certificate that aforesaid leave was granted to him. If medical leave is due to him he should be granted medical leave by the competent authority for the period from 22-10-91 to 20-12-91.

23. Period from 21-12-91 up to the date of his joining at Allahabad shall be regularised by granting such leave as may be due to him and if no leave is due to him he may be granted extra ordinary leave or leave without pay for the remaining period. As the promotion order shall become effective after the concerned workman joins at Allahabad in compliance of the promotion/transfer order his leave salary and other emoluments shall be paid to him calculating his salary according to his pay on the post on which he was working before promotion. If the concerned employee joins at Allahabad in compliance of the direction given in this award, the railway administration of Northern Railway shall pay his dues to him within a period of three months from the date of his joining at Allahabad.

24. Management is further directed to comply with the directions given in paragraph 17 of this award provided the concerned workman submits the relevant documents before the competent authority within the time allowed to him in this award.

25. Both the references are decided accordingly.

R. P. PANDEY, Presiding Officer

नई दिल्ली, 17 अगस्त, 2001

का.आ. 2317.—आंशोगिक विवाद प्रशिनियम, 1947 (1947 का 14) की धारा 17 के ग्रन्थारण में, केन्द्रीय सरकार मेन्टेन रेलवे के प्रबंधनता के मबद्दल नियोजकों और उनके कर्मकारों के बीच, अनवंध में निर्दिष्ट आंशोगिक विवाद में केन्द्रीय सरकार आंशोगिक अधिकारण/थ्रम त्यायालय, कानपुर के पंचाट को प्रकाशित करनी है, जो केन्द्रीय सरकार को 16-8-2001 को प्राप्त हुआ था।

[म. एन-41012/118/99-प्राई आर (वी-1)]

प्रश्न त्रृप्ति, ईस्ट यूनिट

New Delhi, the 17th August, 2001

S.O. 2317.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Railway and their workman, which was received by the Central Government on 16-8-2001.

[No. L-41012/148/99-IR(B-I)]
AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SRI R. P. PANDEY, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SARVODAYA NAGAR, KANPUR

Industrial Dispute No. 275/99

In the matter of dispute between :

Surender Singh,
President,
Rashtriya Chatuith Shreni Rail Mazdoor
Congress (INTUC),
68-Sector 16 Sikandara,
Agra.

AND

Divisional Railway Manager,
(Personnel) Central Railway,
Jhansi.

AWARD

1. Central Government, Ministry of Labour, vide its notification No. L-41012/148/99-IR(B-I) dated 4-10-99 has referred the following dispute for adjudication to this tribunal:—

“Whether the action of Divisional Railway Manager (Karmik) Central Railway, Jhansi, in not giving employment and pension to Guddi w/o late Sri Parmand, MRCL Khasi, on compassionate ground is legal and justified ? If not, to what relief the workman is entitled to ?”

2. In this case after exchange of pleadings between the parties the case was fixed for filing of documents by the management on 7-8-2001. On the date of hearing of the case, concerned work lady filed her affidavit dated 5-8-2001 stating therein that as the management of Central Railway has provided her appointment on compassionate ground vide its order No. 9/2001 dated 28-3-2001 during the course of pendency of this case, hence reference may be decided accordingly.

3. In view of facts alleged in the affidavit of the concerned lady now there remains no dispute between the parties. Accordingly it is held that as the grievance of the concerned lady has been satisfied by the management of Central Railway to her full and final satisfaction. Being so, it is further held that no

dispute exists between the parties in pursuance of the reference made to this tribunal.

4. Reference is answered accordingly.

R. P. PANDEY, Presiding Officer

नई दिल्ली, 17 अगस्त, 2001

का. आ. 2318—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेन्टेनेंस रेलवे के प्रबंधनंतर के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नागपुर के पंचाट को प्रकाशित करनी है, जो केन्द्रीय सरकार वो 16-8-2001 को प्राप्त हुआ था।

[म. एल-41012/209/2000—शार्ड आर (बी-1)]
अजय कुमार, डैस्क अधिकारी

New Delhi, the 17th August, 2001

S.O. 2318.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Railway and their workman, which was received by the Central Government on 16-8-2001.

[No. L-41012/209/2000-IR(B-I)]
AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NAGPUR

PRESENT :

Shri B. G. Saxena, Presiding Officer.
Reference No. CGIT 5/2001

The Divisional Railway Manager, Central Railway

AND

The Secretary, National Railway Mazdoor Union
AWARD

The Central Government, Ministry of Labour, New Delhi by exercising the powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Dispute Act, 1947 has referred this dispute for adjudication vide order No. L-41012/209/2000/IR(B-I) dated 29-12-2000 in the following schedule.

SCHEDULE

“Whether the action of the management of Central Railway through the Divisional Railway Manager (Catering Unit), Nagpur in dismissing Smt. Rukminibai M. Sahu, Nagpur, w.e.f. 1999 onwards is justified? If not what relief the said workman is entitled?”

This reference was received in this court on 23-1-2001. Notices were issued to both the parties. On 26-2-2001, the workman Rukminibai appeared in the court but did not file any statement of claim.

The case was adjourned to 16-3-2001. Rukminibai filed Vakalatnama of Advocate Chandrashekhar Vs. Anwane and the management of Divisional Railway Manager, Nagpur filed Vakalatnama of advocate S. N. Dhanagare. So both the parties were being represented through their advocates from 16-3-2001. The case was adjourned to 8-5-2001 but no statement of claim was filed by the workman. The case was again adjourned to 4-7-2001 & 5-7-2001 but both the parties absented on these dates.

On 8-5-2001 cost of Rs. 500 was imposed on the workman as the statement of claim was not filed and the counsel had mentioned that he has yet to take instructions from his client for the preparation of statement of claim. The workman did not pay the cost.

In view of the above facts it is evident that both the parties are being represented through their advocates since 16-3-2001 but they have been lingering on this case.

As no statement of claim has been filed by the workman, the workman cannot be granted any relief mentioned in the schedule. The reference is therefore disposed of for want of prosecution.

ORDER

The workman, Rukminibai M. Sahu has not submitted any statement of claim regarding her dismissal from service. Her counsel did not file any statement of claim through several adjournments were granted since 16-3-2001.

The reference is disposed of for want of prosecution. No relief can be granted to the workman. Reference is answered accordingly.

Dated : 5-7-2001.

B. G. SAXENA, Presiding Officer

नई दिल्ली, 16 अगस्त, 2001

का.आ. 2319.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार तुनीकोरिन पोर्ट ट्रस्ट के प्रबंधनंतर के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/थ्रम न्यायालय चेन्नई के पंचाट को प्रकाशित करनी है, जो केन्द्रीय सरकार को 14-08-2001 वो प्राप्त हुआ था।

[म. एल-44012/24/97-शार्ड आर (एम)]
ब्री. एम डेविड, शवर मचिव

New Delhi, the 16th August, 2001

S.O. 2319.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the Award of the Central Government Industrial Tribunal cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the employers

in relation to the Tuticorin Port Trust and their workmen which was received by the Central Government on 14.08.2001

[No L 44012/24/97 IR(M)]

B M DAVID Under Secy

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, CHENNAI

Tuesday the 17th July, 2001

PRESNT

K KARTHIKIAN Presiding Officer

Industrial Dispute No 455/2001

(Tamil Nadu State Industrial Tribunal ID No 102/97)

In the matter of the dispute for adjudication under clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act 1947 (14 of 1947) between the workmen S/Sri P Sudalai D Noble Annadurai and K Petchiraj and the Management of the Tuticorin Port Trust

BEFORE

The General Secretary
Port Workers Union
Tuticorin

I Party/Claimant

AND

The Chairman
Tuticorin Port Trust
Tuticorin

II Party/Management

APPFARANCE

For the Workman M/s R Vaigai & Anna Mathew
Advocates

For the Management Sri Rao & Reddy & S Vaishya
nathan and W T Prabahar Advocates

The Government of India Ministry of Labour in exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of Industrial Dispute Act 1947 (14 of 1947) have referred the concerned Industrial Dispute for adjudication vide Order No L 44012/24/97 IR (Misc) dated 21.10.97

This reference has been made earlier to the Tamil Nadu Industrial Tribunal where it was taken on file as ID No 102/97. When the matter was pending enquiry in that Tribunal the Government of India Ministry of Labour was pleased to order transfer of this case from that Tribunal to this Tribunal for adjudication. On receipt of records from that Tribunal the case has been taken on file as ID No 455/2001 and notices were sent to the counsel on record on either side informing them about the transfer of this case to this Tribunal with a direction to appear before this Tribunal on 28.2.2001 with their respective parties. On receipt of notice from this Tribunal the counsel on record on either side were present along with their respective parties and prosecuted this case further.

When the matter was pending before the Tamil Nadu Industrial Tribunal and was taken up for enquiry documents were exhibited on either side with the consent of counsel on either side as I to W1 to W12 and M1 to M9 and at this stage the matter has been transferred to the file of this Tribunal for adjudication.

When the matter came up before me for final hearing on 29.06.2001 upon perusing the Claim Statement, Counter Statement the other material papers on record upon perusing the documentary evidence let in on either side and upon hearing the arguments advanced by the learned counsel on either side and this matter having stood over till this date for consideration this Tribunal has passed the following —

AWARD

The Industrial Dispute referred to in the above order of reference by the Central Government for adjudication by this Tribunal is as follows —

Whether the action of the Management of Tuticorin Port Trust denying Grade I to S/Sri P Sudalai D Noble Annadurai and K Petchiraj is justified? If not to what relief the concerned workmen are entitled? —

2 The averments in the Claim Statement are briefly as follows —

The Port Workers Union is espousing the cause of its members the three workmen concerned in this dispute by raising this industrial dispute. The General Secretary of the Claimant Union (hereinafter referred to as Petitioner) averred in the Claim Statement that the three concerned workmen S/Sri P Sudalai Noble Annadurai and K Petchiraj along with one Mr Velmail joined the Tuticorin Port Trust under the Respondent/Management as cleaners. They were later promoted as Assistant Mechanics. As per recruitment rule further promotion to the post of mechanic was from persons who had a pass in VIII standard with ITI certificate and four years experience in the line. If they possess the aforesaid qualification and pass the trade test conducted by the Port Trust they are entitled to be promoted to the post of mechanic. The three concerned workers in this dispute possess ITI certificates and fulfilled all the requirements under the regulation. Therefor they were promoted as mechanics in the year 1992 and 1993. Since the aforesaid Mr Velmail did not possess ITI qualification he was given an ad hoc promotion as mechanic on 3.7.94 much later the aforesaid three workers were promoted as such. On 7.7.95 a scheme called Tuticorin Port Trust Scheme of skilled categories 1995 was introduced providing for certain conditions for further promotion. Under the Scheme various trades in the Port Trust were divided into different grades of skilled and highly skilled categories. The skilled grades were divided into Grade III and Grade II and highly skilled categories were divided into Grade II and Grade I. The condition for promotion to the various grades are as follows —

An employee who is holding a post in Gr III in any category covered by the scheme of skilled categories will on completion of eight years of service in that said category be eligible for promotion to Gr II in the same category and on completion of six years of service in the Gr II be eligible for promotion to Gr I and after completion of five years of service in Gr I be eligible for promotion to the highly skilled Grade II in the scheme. Further promotion to highly skilled Gr I is subject to availability of posts and five years of service in the Grade of Highly Skilled Gr II.

Though the aforesaid workers were promoted to the post of mechanic earlier than the said Mr Velmail the Respondent Port Trust promoted him as Skilled Grade I on 15.9.95 while it placed these three workers only in Skilled Grade II on the same date. This is highly improper and illegal. Not only Mr Velmail was junior to these three workers in the mechanic post he did not even get a regular promotion to that post since he was not qualified to be promoted as mechanic. Further by the aforesaid promotion the said Mr Velmail was given a double promotion from the post of mechanic which he was holding on an ad hoc basis to skilled Gr I thus the skinnier skilled Grade II in the process. The Port Trust has given a reason that Mr Velmail entered service in July 1973 earlier than the said three persons and therefore he was senior. That reason is wholly unsustainable since the condition for promotion to skilled Gr II under the new scheme is different. What is relevant is the service in Gr III in the Skilled Post and not the total service that Mr Velmail had put in the post of cleaner or Assistant Mechanic. When Mr Velmail was not even eligible to post a mechanic in the lowest grade of skilled post as per the statutory recruitment regulations and was given only ad hoc promotion it cannot be considered to be eligible for further promotion to the post of mechanic to still higher grades by the same rule as senior to the aforesaid workers who are qualified. The scheme of promotion is not a statutory regulation and it is only supplemental to the requirements of the regulations. No promotion can be made under the scheme as the worker concerned does not fulfill the basic

qualification under the statutory regulation. After the repeated representations by the Claimant/Union, the Respondent Port Trust promoted the concerned three workers to skilled Grade I on 9-1-1998 but only prospectively. They are entitled to be promoted from 15-9-95 in preference to the said S. Velmail, who is the junior in the post of mechanic. Hence, this Hon'ble Tribunal may be pleased to hold that the action of the Respondent/Management in denying Grade I to the concerned three workmen from 15-9-95 is unjustified and illegal and consequently the concerned three workmen are entitled to promotion as skilled Grade I from 15-9-95, with due seniority over Sri S. Velmail with all consequential benefits including arrears of salary.

3. The Respondent had filed a Counter Statement disputing the contention of the Claimant Union in their Claim Statement and they are briefly as follows:—

This judicial dispute is not maintainable either in law or on facts. The Tuticorin Port was declared as major Port in the year 1974. The Tuticorin Port Trust board was formed w.e.f. 1-4-79 under the provisions of Major Port Trust Act, 1963. The Central Government formulated and notified Tuticorin Port Trust Employees (recruitment, seniority and promotion) Regulations, 1978 as First Regulation. The Schedule to the regulations contain recruitment rules for various posts operated in the Port on 1-4-1979. The three concerned workmen in the dispute along with S. Velmail had joined duty in Tuticorin Port Trust as cleaners and Assistant Mechanics as noted hereunder:—

Name	Date of joining as Cleaner	Date of joining as Asst. Mechanic
1. Sri S. Velmail	01-10-1973	22-10-1979
2. Sri P. Sudalai	05-01-1979	26-10-1984
3. Sri Noble Annadurai	04-02-1980	23-05-1984
4. K. Petchiraj	04-02-1980	28-05-1987

The Post of Assistant Mechanic is the feeder post for promotion to the grade of mechanic. The recruitment rule to the grade of mechanic is as follows:—

Qualification:—

1. VIII standard pass;
2. ITI certificate with four years experience in the line;
3. Should pass Trade Test conducted by the Port.

Method of Recruitment:—

By promotion, failing which by direct recruitment.

On Promotion:—

1. Assistant Mechanic with 5 year experience in the Port after appointment, thereto on a regular basis.
2. Should pass the Trade Test prescribed and conducted by the Port.

Accordingly, the Four employees mentioned had been promoted to the grade of mechanic on the dates mentioned below:—

1. S. Velmail	08-07-1994
2. P. Sudalai	09-01-1992
3. Noble Annadurai	09-01-1992
4. K. Petchiraj	27-08-1993

Even though Sri Velmail does not have academic qualification of ITI, he was called for to appear for the trade test which is essentially prescribed and conducted by the Port for promotion to the grade of mechanic. The same procedure is being followed in other cases also. But Sri S. Velmail had failed in the trade test. Therefore, he was not promoted again in the year 1994, he was called for to attend the trade test. During this time, he passed the trade test. Therefore, considering his service particulars and performance in the trade test promotion had been offered to Sri S. Velmail to the grade of mechanic by relaxing the academic qualification by Chairman according to para 31 of Tuticorin Port Trust 2668 of 2001—14

Employees (recruitment, seniority and promotion) Regulations, 1979. The relaxation had been done not only in case of Sri Velmail but also to many employees for promotion to the grade of mechanic namely S/Sri S. Jeyaramakrishnan, C. Paulsamy, S. Murugesan and K. Kruppaiah. Therefore, non-possession of ITI certificate i.e. academic qualification is not a bar for giving promotion to employees who are fit for promotion, if the individual is otherwise suitable and qualified by reason of adequate experience and passing the trade test. Moreover, pending Notification of the said amended recruitment rules in the official gazette promotions are being made on ad-hoc basis. Therefore, promotion made on ad-hoc basis is valid and legal. The scheme of skilled scales/services as prevailing in other major Ports were not introduced in Tuticorin Port Trust for a long time. From the date of formation of Tuticorin Port Trust w.e.f. 1-4-1979 to till date of introduction of the scheme i.e. on 14-09-1995 all the employees who were brought into the scheme were drawing the scale of pay equivalent to the pay of skilled grade II. They never worked in any skilled/semi-skilled post carrying the scale of pay equivalent to skilled grade III (entry level posts to the scheme). Due to the non-existence of the scheme they were directly enjoying the scale of pay equivalent to skilled Grade III till the introduction of the skilled scheme. The Central Government by its letter dated 7-7-95 communicated the sanction for implementation of the scheme of skilled scales in Tuticorin Port Trust. This scheme of skilled scales have covered 15 categories of posts including mechanic category. The classification of trades covered under the scheme of skilled categories are as follows:—

- (a) Highly skilled Grade I Rs. 2420-85-2930-100-4430
- (b) Highly skilled Grade II Rs. 2250-85-2920-100-4330
- (c) Skilled Grade I Rs. 2370-70-2720-75-3845
(Five years service in this Grade eligible for next grade promotion)
- (d) Skilled Grade II Rs. 2230-70-2720-75-3695
(Six years service in this grade eligible for next grade promotion)
- (e) Skilled Grade III Rs. 2150-70-2780-75-3605
(Eight years service in this grade eligible for next grade promotion)

After a detailed discussion and having various meeting with Ministry, it has been decided that the Scheme would be introduced taking into account of the skilled categories already existing, scale of pay presently enjoyed by them and the service rendered by the employees in the respective grades including semi-skilled trades. During the time of implementation of the Scheme, the employees have the designation in their grade had been re-categorised equivalent to grade of skilled grade in the scheme. The employees should have rendered more than 11 years of service in skilled and semi-skilled categories had been considered equivalent to skilled grade II. There are three kinds of categories in this Port as (a) Un-Skilled (b) Semi-Skilled and (c) Skilled. As per the terms of the Scheme the service rendered by an employee in Tuticorin Port Trust in semi-skilled category and skilled category have been taken into account, while fixing their grade in the scheme of Skilled Scale. But the service rendered in the unskilled category has not been taken into account. The service rendered by the said four workmen in semi-skilled and skilled categories as follows:—

1. S. Velmail	01-10-73	02-10-79	14 yrs.	16 yrs.
			15 yrs.	
2. P. Sudalai	05-05-79	20-06-84	14 yrs.	11 yrs.
			7.5 yrs.	
3. D. Noble	04-02-80	23-05-84	14 yrs.	11 yrs.
Annadurai			7.5 yrs.	
4. K. Petchiraj	04-02-80	28-05-87	14 yrs.	8 yrs.
			6 yrs.	

It is seen from this above tabular statement that Sri S. Velmail had joined in this Port Trust on 1-10-73 as cleaner, whereas the other three workmen have joined only in the year 1979 and 1980. Sri S. Velmail is senior in the grade of cleaner as well as in the grade of Assistant Mechanic which is a semi-skilled grade. However, as a mechanic, he became junior as he failed in the trade test, while considering for the grade of mechanic. However, when the scheme was introduced the total service put together in the semi-skilled and skilled i.e. Assistant Mechanic and Mechanic having taken into account while fixing the grade. On this basis, Sri Velmail has put 16 years of service in the skilled grade i.e. semi-skilled and skilled, whereas the other three employees have put in 11 years, 11 years and 8 years respectively and the minimum service required for an artisan to be considered for the skilled grade I is 14 years. Since Sri Velmail has got 16 years service as on 15-9-95 in the skilled category, he was offered skilled grade I, whereas, the other three employees have put less than the required minimum period of service they were offered skilled grade II. The four employees who had been referred to in this case had been promoted on ad hoc basis only. During the time of re-categorisation of employees in the scheme of skilled scales w.e.f. 15-9-95, the following factors were taken into consideration:—

- (a) skilled categories already existing;
- (b) scale of pay presently enjoying by them;
- (c) services rendered by the employees in the respective grade including semi-skilled grade;

As S/Sri P. Sudalai and Noble Annadurai had rendered the service of three and half years only in the grade of mechanic, scale of pay of Rs 2230 3695 as on 14-9-95 and they have rendered the service of 11 years only in the same category, they had been categorised to the grade of Skilled Grade II and the date from which their eligibility for considering to next higher grade had also been indicated vide order No F'M 35/28 95/P'D 1171 dated 15-9-95 which are as follows:—

Name	Date of joining as Mechanic i.e. Taken as service in Skilled G1	Date of from which they be eligible for considering to next higher grade
1. P. Sudalai	09-01-1992	09-01-1998
2. D. Noble Annadurai	09-01-1992	09-01-1998
3. K. Petchiraj	27-08-1993	27-08-1999

As S/Sri P. Sudalai and Noble Annadurai had completed six years of service in the grade as on 8-1-1998 as laid down in the scheme and as they have passed the Trade Test, they were promoted on 9-1-1998 to the grade of Skilled Grade I. But Sri K. Petchiraj had not been promoted to skilled Grade I, even though, he would have been eligible on 26-8-99, for promotion to skilled Grade I. The petitioner is fully aware of the above said facts and despite the same they have filed this claim. There is absolutely no merits in the contention made by the Petitioner Union and the Respondent has been following the regulations scrupulously, while promoting the employees. Hence, the Tribunal may be pleased to dismiss this industrial dispute as devoid of merits.

4. The I Party/Claimant had filed a rejoinder as follows:—

The length of service as Assistant Mechanic is not relevant but the length of service as mechanic only is relevant. The three employees S/Sri P. Sudalai, Noble Annadurai and K. Petchiraj services were regularised as mechanics by the Respondent/Management by an order dated 7-7-95 with effect from 9-1-92, 9-1-92 and 27-8-93 respectively and they have not been promoted as mechanics only on adhoc basis as Sri Velmail was promoted on ad-hoc basis. The Management's action is contrary to the statutory rules and even the Govt. scheme dated 7-7-1995.

5. The point for my consideration is—

"Whether the action of the Management of Tuticorin Port Trust denying Grade I to S/Sri P. Sudalai, Noble Annadurai and K. Petchiraj is justified? If not to what relief, they are entitled?"

Point:—

It is the prayer of the Claimant in this dispute that the concerned three workmen are entitled to promotion as Skilled Grade I from 15-09-95. They have claimed this relief on the basis that they have been promoted as mechanics on 9-1-92, 9-1-92 and 27-8-93 respectively since they possess all the requisite qualifications like a pass in VIII standard with ITI certificate and four years experience in the line and have also passed the trade test conducted by the Port Trust. It is admitted that the other workman Sri S. Velmail was not having academic qualification of ITI. It is the contention of the Respondent/Management that inspite of that the said Velmail was called for to appear for the trade test, since a pass in the trade test conducted by the Port Trust is a pre-requisite for promotion to the grade of mechanic, though the said Velmail had failed first in the trade test, again when he called for in the year 1994 to attend the trade test, he passed the trade test. This is not disputed by the Claimant. It is the further contention of the Respondent/Management that considering the service particulars and performance in the trade test, promotion had been offered to Sri S. Velmail to the grade of mechanic by relaxing the academic qualification by Chairman according to para 31 of Tuticorin Port Trust Employees (Recruitment, Seniority and Promotion) Regulations, 1979, as it has been done to other employees for promotion to the grade of mechanic like S/Sri Jeyaramakrishnan, Paulsamy, S. Mutugesan and K. Karuppaiah. It is also contended by the Respondent/Management that non-possession of ITI i.e. academic qualification is not a bar for promotion to the employees who are fit for promotion, if the individual is otherwise suitable and qualified by reason of adequate experience and passing the trade test. This has not been disputed by the Claimant Union as the action of the Management against the prescribed Regulations for fixing of seniority and promotion. It is further contended by the Respondent/Management that pending Notification of the amended recruitment rule in the official gazette promotions are being made on ad-hoc basis. That is also not disputed by the Petitioner/Claimant. It is not disputed that the said employee Sri S. Velmail joined duty in Tuticorin Port Trust as Cleaner, years prior to the concerned three workmen joined duty in Tuticorin Port Trust as cleaners. Sri Velmail joined duty as early as 1-10-73 and six or seven years later these concerned three workmen joined duty in Tuticorin Port Trust. The days on which these concerned three workmen and the said workman Sri S. Velmail joined as Assistant Mechanic in the Respondent Establishment has been mentioned in the Counter Statement specifying the dates. That has not been disputed by the Petitioner/Claimant. It is the further contention of the Respondent/Management that the employees in the Tuticorin Port Trust have been categorised into unskilled, semi-skilled and skilled and as per the Scheme, the service rendered by the employees in semi-skilled category and skilled category only have been taken into account while fixing their grade in the scheme of Skilled scale. But the service rendered by them in the unskilled category has not been taken into account. This also has not been disputed by the I party/claimant as incorrect. It is also stated in the Counter Statement of the Respondent/Management that during the time of implementation of the scheme, the employees, who have the designation have been re-categorised equivalent to the grade of skilled grade in the scheme. Thus, the employees who have rendered 14 years of service in skilled and semi-skilled had been considered equivalent to the grade of Skilled Grade II. It is admitted that Sri S. Velmail joined as a cleaner in the Tuticorin Port Trust on 1-10-73 promoted as Assistant Mechanic on 2-10-79 and then promoted as Mechanic on 8-7-94, whereas, the concerned three workmen have joined Port Trust as cleaner on 5-1-79, 4-2-80, and 4-2-80 were promoted as Assistant Mechanic on 20-6-84, 23-5-84 and 28-5-87 and they got the promotion as Mechanic on 9-1-92, 9-1-92 and 27-8-93 respectively. While the concerned workmen were promoted to Skilled Grade II on 15-9-95, the workman Sri S. Velmail was promoted to Skilled Grade I on the same date. This has been disputed as improper by the I Party/Claimant. What that is stated in para 4 of Claim Statement has not been admitted by the Respondent/Management in their Counter Statement. The details with regard to scheme of skilled scales/services introduced in the Tuticorin Port Trust on 15-9-95 has been mentioned in para 7 of Counter Statement. As per the Scheme, skilled categories had been categorised into five as Highly Skilled Grade I, Highly Skilled Grade II, Skilled Grade I, Skilled Grade II and Skilled Grade III. This is not disputed by the I Party/Claimant. In Para 9 of Counter Statement, it has been clearly

averred how the scheme provisions have been implemented in respect of the concerned three workmen and the workman Sri S. Velmail and when the scheme was introduced the Respondent/Management had taken into account the total service put together by the employees in the semi skilled and skilled i.e. Assistant Mechanic and Mechanic posts and had fixed their grade. On this basis, it is seen that Sri S. Velmail had put in 16 years of service in semi-skilled and skilled jobs, whereas the other concerned three employees have put 11 years, 11 years and 8 years respectively. It is not disputed that minimum service required for Artisan to be considered for Skilled Grade I is 14 years. As on 15-9-95 the workman Sri S. Velmail had got 16 years of service in the skilled category. This is not disputed by the I party Claimant. That was why on 15-9-95, when the scheme was implemented and the grades have been fixed for the employees, the said workman S. Velmail had offered skilled Grade I, whereas the concerned three employees having put less than the required minimum period of service i.e. 14 years for skilled Grade I they were offered Skilled Grade II. So it cannot be said that the action of the Management of Tuticorin Port Trust in denying Grade I to the concerned three workmen on 15-9-95 is unjustified. A perusal of the documents Ex. W3 and W4 clearly shows that the action taken by the Management, as it is spoken by them in the Counter Statement, is only in accordance with the scheme mentioned under Ex. W4. Under such circumstances, it is seen that the Respondent/Management Tuticorin Port Trust had not committed any irregularity or wrong in denying Grade I to the concerned three workmen on 15-9-95 and it was granted to the workman Sri S. Velmail on the same day. Thus, I answer the point accordingly.

6. In the result, an award is passed holding that the action of the Management of Tuticorin Port Trust in denying Grade I to S/Sri P. Sudalai, Noble Annadurai and K. Petchirai as claimed by them is justified. Therefore, the concerned workmen are not entitled to the relief prayed for by the Claimant/Union in this industrial dispute. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 17th July, 2001.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :

On either side : None

DOCUMENTS MARKED :

For I Party/Workman :

Ex. No. Date Description

- W1 16-03-79 Extract from T.P.T. Employees (Recruitment Seniority & Promotion) Regulation, 1979.
- W2 07-07-95 Xerox copy of letter from Ministry of Surface Transport to the Chairman, Tuticorin Port Trust.
- W3 07-07-95 Xerox copy of letter of Tuticorin Port Trust Regarding regularization of ad-hoc services. In the grade of mechanic to the individuals.
- W4 07-07-95 Tuticorin Port Trust—scheme of skilled Categories, 1995.
- W5 09-01-96 Xerox copy of representation of the Petitioner to the Management.
- W6 12-03-96 Xerox copy of Petitioner's letter to the Asst. Labour Commissioner (Central), Chennai.
- W7 12-07-96 Xerox copy of Respondent's comments to the Asst. Labour Commissioner (Central), Chennai.
- W8 21-05-97 Xerox copy of the failure report of the Asst. Labour Commissioner (Central), Chennai.
- W9 01-12-97 Industrial dispute raised by the Claimant/Union before the Asst. Labour Commissioner (Central), Chennai.
- W10 19-05-98 Xerox copy of Respondent's reply to the Asst. Labour Commissioner (Central), Chennai.

W11 17-08-98 Xerox copy of Petitioner's rejoinder to the Asst. Labour Commissioner (Central), Chennai.

W12 21-10-98 Xerox copy of Respondent's reply to the Asst. Labour Commissioner (Central), Chennai.

For the II Party/Management :

- M1 Nil Extract from T.P.T. Employees Recruitment (Seniority and Promotion) Regulation, 1979.
- M2 01-12-94 Xerox copy of seniority list of Organers and Assistant Mechanics of Port Trust.
- M3 18-07-94 Xerox copy of order of promotion from the Assistant Mechanic to Mechanic on ad-hoc basis.
- M4 07-07-95 Xerox copy of regularization of ad-hoc services made in the grade of Mechanic.
- M5 07-07-95 Xerox copy of Tuticorin Port Trust Scheme of Skilled Categories, 1995.
- M6 07-07-95 Xerox copy of letter from the Ministry of Surface Transport to the Respondent.
- M7 15-09-95 Xerox copy of order of Port Trust under Reference No. E(M)135/28/95-P. Y 1173.
- M8 15-09-95 Xerox copy of order of Port Trust under Reference No. E(M)15/28/95-P. O1174.
- M9 23-01-98 Xerox copy of order of Port Trust under Reference No. E(M)40/1/97-P. O318.

नई दिल्ली, 16 अगस्त, 2001

का.प्रा. 2320—आंदोलिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दो.एन. जी. सी. लि., के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुवंध में निर्दिष्ट आंदोलिक विवाद में केन्द्रीय सरकार औंदोलिक अधिकरण मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-08-2001 को प्राप्त हुआ था।

[सं. एन-31012/27/99-पाई आर (एम)]

बी.एम. डेविड, अवर सचिव

New Delhi, the 16th August, 2001

S.O. 2320.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the ONGC Ltd. and their workmen which was received by the Central Government on the 14-8-2001.

[No. L-31012/27/99-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, MUMBAI

PRESIDENT :

S. N. Saundarkar, Presiding Officer
Reference No. CGIT-1/42 of 1999

Employers in relation to the management of O N G C, Ltd.

ONGC Ltd.
The Regional Director (MRBC)
Vasudhara Bhavan,
Bandra (E),
Mumbai-400051

AND

The Workmen
The General Secretary,
Petroleum Employees Union,
Tel-Resayan Bhavan,
Tilak Road, Dadar,
Mumbai.

APPEARANCES :

For the Employer : Shri G. D. Talreja, Representative.
For the Workmen : Shri N. A. Khanvirkar, Representative
Mumbai, dated 9th July, 2001.

AWARD

The Government of India, Ministry of Labour, by its Order No. L-30012/27/99-IR(M), dtd. 15/9/1999, have referred the following dispute for adjudication to this Tribunal in exercise of powers conferred on it, by Clause (d) of Sub-Section (1) and Sub-Section (2A) of Section 10 of the Industrial Disputes Act, 1947.

"Whether the action of the management of ONGC Ltd. Mumbai in accepting the resignation forms of 89 members of Petroleum Emp. Union submitted by ONGC (BOP) Karmachari Sanghatana is legal and justified? If not, to what relief the Petroleum Emp. Union is entitled to?"

2. Pursuant to the notices of this tribunal management ONGC and the Employees Union, appeared. Management vide application (Exhibit-5) pointed out that the union did not put their Statement of Claim, therefore, union being not interested, reference be disposed of Union's General Secretary, Mr. N. A. Khanvirkar vide purshis (Exhibit-6) contended that they are not pressing the reference. In view of this, following order is passed :—

ORDER

Reference stands disposed of for non-prosecution vide purshis (Exhibit-6).

S. N. SAUNDANKAR, In-charge Presiding Officer

नई दिल्ली, 16 अगस्त, 2001

का.श्र. 2321.—आद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कावस जी बेहराम जी ए. के. के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट आद्योगिक विवाद में केन्द्रीय सरकार आद्योगिक अधिकरण मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-08-2001 को प्राप्त हुआ था।

[म. एन-31012/31/99-आईआर (पम)]
दी.एम. डेविड, अवर सचिव

New Delhi, the 16th August, 2001

S.O. 2321.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the M/s. Cawasji Behramji & Co. and their workmen which was received by the Central Government on the 14-8-2001.

[No. L-31012/31/99-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, MUMBAI

PRESENT :

S. N. Saundankar, Presiding Officer

Reference No. CGIT-1/31 of 2000

Employers in relation to the management of M/s. Cawasji Behramji and Company
M/s. Cawasji Behramji and Co.,
The Director,
MPT-4, 166, Sasson Dock, Colaba,
Mumbai-400005

AND

Their Workmen
Shri Harshadrai Barot,
Peter Chawl, Near Ekta Nagar,
MH 3 Colony, Dahanukar Wadi,
Kandivli (W),
Mumbai-400067.

APPEARANCES :

For the Employer : No Appearance.

For the Workmen : No Appearance.
Mumbai, dated 6th July, 2001.

AWARD

The Government of India, Ministry of Labour, by its Order No. L-31012/31/99-IR(M), dtd. 16-3-2000 and letter dtd. 29-6-2000, have referred the following dispute for adjudication to this Tribunal in exercise of powers conferred on it by Clause (d) of Sub-Section (1) and Sub-Section (2A) of Section 10 of the Industrial Disputes Act, 1947.

"Whether the action of the management of M/s. Cawasji Behramji & Company in terminating the services of Shri Harshadrai Barot is justified? If not, to what relief the workman is entitled to?"

2. Pursuant to the notice of this tribunal dtd. 2-8-2000 management M/s. Cawasji Behramji and Company, and workman Shri Harshadrai Barot, though served (vide Exhibit-3 & 4) did not appear. Therefore a fresh notice was issued again (vide Ex-5) and that record shows though both the parties served, none appeared, which indicates that the workman is not interested in prosecuting the reference. Therefore following order is passed :

ORDER

Reference stands disposed of for non-prosecution

S. N. SAUNDANKAR, In-Charge Presiding Officer

नई दिल्ली, 16 अगस्त, 2001

का.श्र. 2322 :—आद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मै. महेश कुमार पोलाई के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट आद्योगिक विवाद में केन्द्रीय सरकार आद्योगिक अधिकरण/श्रम न्यायालय भूतनेश्वर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-08-2001 को प्राप्त हुआ था।

[म. एन-26011/3/97-आईआर (पम)]
दी.एम. डेविड, अवर सचिव

New Delhi, the 16th August, 2001

S.O. 2322.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar (Orissa) as shown in the Annexure, in the Industrial Dispute between the employers in relation to the M/s. Mahesh Kumar Polai

and their workmen which was received by the Central Government on the 14-8-2001.

[No. L-26011|3|97|IR(M)]
B. M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

PRESENT :

Sri S.K. Dhal, OSJS, (Sr. Branch),
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

Tr. INDUSTRIAL DISPUTE CASE CASE NO. 164/2001

Dated, Bhubaneswar, the 18th July 2001

BETWEEN

The Management of M/s. Mahesh Kumar Polai,
Contractor, Kasia Iron Mines, P.O. Kasia,
Keonjhar. . . 1st Party-Management.

AND

Their workmen, represented through the General
Secretary, Barbil Workers Union, P.O. Barbil,
Keonjhar. . . 2nd Party-Workman.

APPEARANCE :

Shri G.D. Pati, . . . For the 1st Party Management.
None. . . For the 2nd Party-Workman.

AWARD

The Government of India in the Ministry of Labour, in exercise of Powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), have referred the following dispute for adjudication vide their Order No. L-26011|3|97|IR(M), dated 5-5-1997 :—

"Whether the demand of the Barbil Workers Union to raise the existing rate for 9 Cft. Iron Ore of 4" size from Rs. 15 to Rs. 25 and to reimburse the cost of medicines prescribed by Doctors to the workmen of the management of M/s. Mahesh Kumar Polai, Cont. Kasia Iron Mines, M/s. Essel Mining and Industries, PO : Kasia, Dist. Keonjhar, are proper? If so, what relief the workmen are entitled to?"

2. On receipt of the reference the Management appeared and filed his written statement denying the claim of the Union. But the Union did not appear before this Tribunal inspite of intimation sent by the Government of India (Ministry of Labour) and notice issued to him time to time by the Tribunal.

3. When the 2nd Party-Union has not filed any claim statement and have not appeared before the Tribunal. It would suggest that presently no dispute exists between the parties and the 2nd Party-Union has got no cause of action.

4. In view of the above facts this Tribunal is of the opinion that there is no Industrial Dispute exists between the parties and the workmen are not entitled to any relief.

5. No dispute award is passed accordingly.

6. Reference is answered accordingly.

S.K. DHAL, Presiding Officer

नई दिल्ली, 17 अगस्त, 2001

का.आ.ट. 2323—आौद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दोनीमलाई आयरन और प्रोजेक्ट के प्रबंधनव के मंत्री नियोजकों और उनके कर्मकारों के बीच, प्रनुबंध में निर्दिष्ट आौद्योगिक

विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलौर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-08-2001 को प्राप्त हुआ था।

[स. प्रक. 26011/4/96-आई आर (एम)]
बी.एम. डेविड, अवार मन्त्री

New Delhi, the 17th August, 2001

S.O. 2323.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employees in relation to the management of Donimalai Iron Ore Project and their workman, which was received by the Central Government on 14-8-2001.

[No. L-26011|4|96-IR(M)]
B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, 'SHRAM SADAN', III MAIN, III CROSS, II PHASE, TUMKUR ROAD, YESHWANTHPUR, BANGALORE

Dated : 16th July, 2001

PRESENT :

Hon'ble Shri V. N. Kulkarni, B. Com., LLB., Presiding Officer.

CGIT-CUM-LABOUR COURT, BANGALORE

C. R. No. 180/97

I PARTY

The General Secretary,
Donimalai Iron Ore Project,
Employees Association,
Donimalai Township P.O.
Sandur,
Bellary District,
(Advocate—Shri Ganesh Bhat, Y.H.)

II PARTY

The General Manager,
Donimalai Iron Ore Project,
Donimalai Township P.O.
Sandur Taluk,
Bellary,
(Advocate—Shri N. Venkatesh)

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-26011|4|96-IR (Misc.) dated 13-11-96 for adjudication on the following schedule.

SCHEDULE

"Whether Management of National Mineral Development Corporation, Donimalai is justified in not paying HRA to workmen residing at Villages other than Sandur and Donimalai Township at the rate of 7-1/2 per cent the basic pay w.e.f. 1-1-1992. If not to what relief the workmen are entitled to?"

2. The workmen of the Employees Association, Donimalai Iron Ore Project, Donimalai Township are working with the management. The said management is not paying HRA to workmen residing at village other than Sandur and Donimalai Township at the rate of 7-1/2 per cent of the basic pay w.e.f. 1-1-1992 and therefore the dispute is raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The case of the first party union workmen in brief is as under :

5. It is an admitted fact that the workmen are working with the Management.

6. The grievance of the workmen is that allowances were fixed in accordance with memorandum of 16-12-1989 in respect of HRA and the Second Party management entered into various settlement dated 15-2-1976, 23-8-1980, 17-9-1993 and 16-12-1989. The workmen residing at surrounding areas of Donimalai were treated equally as one category.

7. It is the further case of the workmen that subsequent to the settlement dated 16-12-1989 the second party through the Chairman, NMDC, Hyderabad has issued an office order No. 2/Rules/72/Vol. II dated 21-8-1991 with regard to House Rent Allowance payable to the workmen. On pursuing the same order it is clear that there is no departure in the House Rent Allowance payable to the workmen residing outside the Donimalai Township. For the first time Sandur is demarcated as distinct and separate place for grant of House Rent Allowance and is fixed at the rate of 10 percent of the basic pay.

8. It is the further grievance of the workmen that while referring to the order dated 21-8-1991 the second party management inferred wrongly and categorised to the Sandur and other villages and implemented the above said order and the HRA to the Workmen who are residing at Sandur are being paid at the rate of 10 percent of the basic pay and HRA for the workmen who resides in other villages were continued to be paid at old rate i.e. according to the settlement dated 16-12-1989.

9. There is no office of the second party at Sandur and therefore the action of the management is discriminatory, illegal and arbitrary. These workmen have similar problems and the villages surrounding Donimalai Township like Bhujanganager, Taranager, Ranjipur, Naraspur are also Mandal Panchayath similar to that of Sandur. So there is no rational in discriminating the workmen on these reasons.

10. It is the further case of the workmen that in similar circumstance House Rent Allowance for the workmen who are working in R&D Lab and New Product Corporation of NMDC Ltd., situated at Uppal in Ranga Reddy District of Andhra Pradesh, managed by the National Mineral Development Corporation are being paid at the rate of 25 per cent for with the employees working at Hyderabad Office.

11. Many representations were made but nothing is done.

12. It is the further case of the workmen that the office order dated 6-10-1995 is also not implemented by the Second Party management. The workmen are entitled at least for 7-1/2 per cent H.R.A. The workmen for these reasons and for some other reasons has prayed to pass award in their favour and to pay HRA at the rate of 10 per cent of the basic salary.

13. The case of the Second Party in brief is as under:

14. The allegations made by the workmen are false.

15. The Second Party has been paying House Rent Allowance to its employees posted/residing in various cities based on classification of cities notified by the Government of India and communicated by the Head Office of Second Party. Similarly, house rent recovery from those workmen provided with accommodation in the project and workmen not provided with accommodation and residing in surrounding villages are paid house rent equal to the sum recovered from the allottees of accommodation based on tripartite settlements arrived at from time to time. With effect from 21-8-91, Panna Town and Sandur have been classified as un-classified cities and workmen posted/residing in these places are paid HRA at 10 per cent of basic pay.

16. It is further stated by the Second Party in the counter that the relevant provisions in the settlement dated 18th September 1995 regarding HRA for cities are as under:

- (i) Wherever House Rent Allowance and City Compensatory Allowance are being paid to the workmen posted in the cities as percentage of basic pay, the present practice shall continue.
- (ii) Classification of cities for payment of such allowances shall be as notified by the Corporation.

(iii) It is agreed to include city of (a) Calcutta along with the grouping at Bombay and Delhi, and (b) Raipur along with the grouping of Visakhapatnam for payment of House Rent Allowance w.e.f. 1-6-95.

17. It is the further case of the management that the office order dated 6-10-1995 regrouping the cities for the purpose of payment of HRA is being made. In the above order there is a mention that "other places not covered in the above grouping HRA is payable at 7-1/2 per cent."

18. It is the further case of the management that is applicable to cities only. The management has also said that the provisions of recovery and House Rent for the project is as per the Clause 5, stated in the counter.

19. It is the further contention of the management that the dispute raised by the workmen in regard to payment and recovery of House Rent in project area is not correct.

20. It is the further case of the management that the house rent payable to workmen in projects is in accordance with the Circular dated 28-11-1995. That circular is cited in the Counter as under :

(a) "the percentages of HRA indicated in the Office Order dated 6-10-95 are applicable to only cities/Places other than project and feasibilities;

(b) in respect of workmen posted to work in the projects and feasibilities, the rates for payment of HRA and rates for recovery of house rent as provided in Annexure III of letter No. 7(8)89-IR dated 20th December 1989 issued in pursuance of Memorandum of Settlement dated 16-12-1989 continue to be applicable".

21. The said Clarification has been issued by the Corporate Office. There is a memorandum of settlement dated 16-12-1989 and that is applicable. The claim is not correct.

22. It is the further case of the management that payment of recovery of house rent to the workmen provided with accommodation in the project and workmen residing in surrounding villages of the project is regulated in accordance with provisions of various Tripartite Settlement entered into from time to time at the Corporate Level with the workmen represented by the All India NMDC Workers Federation and its affiliated Unions.

23. The management has also given in the counter memorandum, the settlement dated 30-10-1971 as under:

24. Payment of HRA was extended to only those employees who are posted at Cities viz. Bombay classified as Group A, Delhi/Calcutta classified as Group B, Vizag classified as Group C, Bangalore/Faridabad/Ranchi/Raipur/Jagadalpur/Mangalore classified as Group C.

25. Memorandum of Settlement dated 15-2-1976 is as under :

26. The concept of payment of HRA to workmen who have not been provided with residential accommodation at the Project Township was for the first time introduced with effective from 1-3-1976 as per money tables, equivalent to the rates of recovery of House Rent from workmen provided with accommodation.

27. Memorandum of Settlement dated 17-9-1983 is as under:—

28. This settlement provided that "Merely as a consequence of increase in Basic pay" due to revision of wages, there shall not be any change in regard to the eligibility of workmen for allotment of quarters and in the house rent recovery and there shall also be no change in the payment of House Rent Allowance to those workmen who are not allotted quarters.

29. Memorandum of Settlement dated 16-12-1989 is as under :

30. A similar provisions as in Memo of settlement dated 17-9-1983 was incorporated. While maintaining the recovery of house rent to those who are provided with residential accommodation equivalent to Type II and below at

Rs. 250 p.m., the Table for payment of House Rent to those who are not provided with residential accommodation was rationalised on the basis of the grades ranging from Rs. 35 for L 1 grade to Rs. 125 for L 10 Grade.

31. Memorandum of Settlement dated 18-9-1995 is as under :

32. "Merely as a consequence of increase in Basic Pay, there shall not be any change in regard to the eligibility of workmen for allotment of quarters and 'house rent recovery'. "Workmen covered by this Settlement who are not allotted and who are not in occupation of Corporation quarters shall be paid HRA as per the existing guidelines issued from time to time". "Existing rate of House Rent Recovery for the quarters allotted shall continue". "Classification of Cities for payment of such allowance shall be as notified by the Corporation."

33. The management for these reasons for some other reasons has prayed to reject the reference.

34. It is the further case of the management that the surrounding villages of unclassified city of Sandur cannot be equated on par with Uppal forming part of urban agglomeration of Hyderabad. There is no discrimination as alleged by the workmen and the reference has no merit.

35. The management for these reasons and some other reasons has prayed to reject the reference.

36. It is seen from the records that on 3rd August 1999 this court by consent of parties document marked Ex. M1 to M12 and the matter was posted for arguments. Workmen also filed some other documents.

37. I have heard both sides in detail and I have considered all the documents.

38. The main contention of the first party workmen is that though the management is paying HRA at the old rate, in accordance with 1989 settlement the management has to pay 7-1/2 per cent HRA of the basic pay in accordance with the office order dated 6-10-1995. All this is stated in para 10 of the Claim Statement. I have carefully perused the Settlement Ex. M11. The HRA is paid to the workmen residing in cities, as per Clause 6.1 of the settlement dated 18th September 1995, under Section 12 sub clause 3 of the ID Act 1947. As per Ex. M11 Settlement clause 6.2 is classification of cities for payment of HRA which says that the house rent allowance shall be notified by the Corporation.

39. It was vehemently argued by the learned counsel for the management that as per the settlement Ex. M11, the HRA to be paid was only for cities and not the persons residing in the projects and therefore, the present HRA paid to these workmen of the first party union is correct and they are not entitled for 7-1/2 per cent as alleged by the workmen.

40. He further contended that in fact, when the workmen raised this dispute the prayer was to pay house rent at the rate of 10 per cent of the basic salary and the reference is for consideration of 7-1/2 per cent and there is no consistency in the stand taken by the workmen and the reference has no merit. I have considered this arguments in the light of various documents.

41. Much was relied by the workmen on Ex. M8. Ex. M8 is the office order and it says 7-1/2 percent HRA will be paid for the persons working at other places not covered in the above grouping.

42. In other words the first party union workmen are not residing in any cities but they are residing in the villages nearby the project and the existing rate of HRA which is paid is correct and it is in accordance with the settlement and there is no merit in this reference. In Ex. M8 Sandur is shown as city for the purpose of HRA. In view of this I am of the opinion that the first party union workmen are not entitled for 7-1/2 percent HRA because the settlement and the office orders and circulars are only in respect of workmen who are residing in the cities notified and not in the project and nearby villages.

43. The learned counsel for the management in support of this argument relied decision reported in AIR 1997 Supreme Court page 3008

44. It is held by the Hon'ble Apex Court that the grant of amenities and allowance only to employees stationed within project amenities and allowance only to employees stationed project but stationed not within project area but in Taluk, Headquarters and elsewhere is not discriminatory.

45. Keeping in mind the principles held in the above decision I am of the opinion that the contention of the workmen that they are entitled for 7-1/2 percent HRA as by me on 16th July, 2001).

46. I have considered the entire material carefully and I am of the opinion that the workmen are not entitled for HRA 7-1/2 per cent and the reference has no merit. Accordingly I proceed to pass the following order.

ORDER

The reference is rejected.

(Dictated to PA transcribed by her corrected and signed by me on 16th July, 2001)

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 17 अगस्त, 2001

का.आ 2324—आंशोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तर्गत में, केन्द्रीय सरकार कुद्रेमुख आयरन ऑर्स के प्रबंधनात्मक संबंध नियोजकों और उनके कर्मकारों के बीच, अन्तर्बंध में निर्दिष्ट आंशोगिक विवाद में केन्द्रीय सरकार आंशोगिक अधिकरण बंगलौर के पंचायत को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-8-01 को प्राप्त हुआ था।

[सं. एल-26012/1/96-आई आर (एम)]

बी.एम.डेविड, अवर मंत्रिव

New Delhi, the 17th August, 2001

S.O. 2324.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management Kudremukh Iron Ore Co. and their workman which was received by the Central Government on 14-08-2001.

[No. L-26012/1/96-IR(M)
B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT 'SHRAM SADAN',
III MAIN, III CROSS, II PHASE, TUMKUR ROAD,
YASHWANTPUR, BANGALORE.

Dated : 9th July, 2001

PRESFNT :

Hon'ble Shri V. N. Kulkarni, B.Com, LLB,
Presiding Officer
CGIT-cum-Labour Court,
Bangalore

C.R. No. 139/97

I PARTY

Shri H. M. Sachidananda,
Kampli Sugar Factory,
P.O. Hospet Taluk,
Bellary-583133
(Advocate—Shri Satya Narayan)

II PARTY

The General Manager (Pesa),
Kudremukh Iron Ore Company Ltd.,
Kudremukh-577142
(Advocate—Shri K. Katturi)

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-26012/1/96-IR(Misc) dated 9-5-1996 for adjudication on the following schedule :

SCHEDULE

"Whether the action of the management of KIOCL in terminating the services of Shri H. M. Sachidananda w.c.f. 8-8-1995 is justified? If not, to what relief he is entitled?"

2. The first party was working with the second party. Charge sheet was issued. Enquiry was held and on the basis of enquiry report the services were terminated. Therefore, this dispute is raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The case of the first party in brief is as follows :

5. The first party was working with the Second party as Junior Trainee in 1987 and subsequently he was confirmed as Junior Mechanic Grade-II. He was drawing a salary of Rs. 2300 per month. He was an active member of the Union.

6. On 25-6-1992 at about 10 A.M. when he was on duty he was informed that his wife set fire to herself by pouring Kerosene Oil and he informed this to his higher authorities and with permission he left the work premises. He has narrated about that incident in para 4 of the Claim Statement.

7. He got a telegram on 19-7-1992 to join on duty and he informed that he will be joining duty on 21-7-1992. Therefore, the question of remaining absent intentionally does not arise. He was prosecuted in Criminal court and he has given details of that in the given claim statement.

8. So far as enquiry is concerned, for various reasons as stated in the Claim Statement it is alleged that the same is not correct and legal. The first party workman has said that in a situation like this the order of dismissal is not correct and proportionate and therefore he has prayed to pass award in his favour.

9. The case of the Second party in brief is as under :—

10. The fact of working, training and confirmation are all admitted by the management. The contention of the management is that on 25-6-92 he left the premises without permission and he remained absent. He did not file any leave application and accordingly a telegram was sent on 14-7-1992 asking him to report duty but neither he appeared nor sent any information. The management have also narrated the incident of Suicide to some extent and court proceedings.

11. The first party was involved in serious crime. He remained absent from July 1992 to December 1992.

12. So far as enquiry is concerned it is said that the enquiry is proper and legal. It was conducted by giving full opportunity to the first party and all the allegations are not correct. The management for these reasons and some other reasons has prayed to reject the reference.

13. It is seen from the records that this court by its order dated 6-8-1999 passed orders holding that the Domestic Enquiry is fair and proper.

14. It is seen from the records that the management examined one witness. He has given evidence in respect of enquiry. Workman examined himself as WWI and therefore, the case was posted for arguments.

15. I have heard arguments of both sides. I have perused all the documents carefully. First party has filed Written Argument. Second party has also, filed Written Argument. I have gone through the same carefully. Both sides have cited certain decisions. I have read them carefully.

16. So far as enquiry is concerned this court has given finding that the same is fair and proper. In view of this now we will have to see whether the action taken by the management in dismissing the first party from service is justified and proper.

17. In the instant case according to the first party on 25-6-1992 it was informed him at work that his wife has committed suicide and he left the work premises. The contention of the workman is that he left the work site with the permission of higher authorities. In a situation like this, the first party going from work side is quite natural but he should have atleast informed some one at the work place or the higher authorities. In the instant case the first party has not adduced any evidence so as to say that he informed the incident to the Higher Authorities and left with permission. He only says he informed higher authorities but that is not proved and there is no material to that effect.

18. It is seen from the records that the management has sent one telegram on 14-7-92 advising the workman to report for duty but inspite of this he did not go for duty and he has not applied any leave and has not taken permission. I have carefully perused all the enquiry papers and the evidence. There is nothing on record to show that the enquiry is perverse and the finding is illegal. There is also allegation against him that the first party has damaged the quarter allotted to him. There was a criminal case against him but it appears, that according to the first party he is acquitted.

19. It was vehemently argued by the first party that the first party due to suicidal incident was absent and it was not an intentional absent and the criminal case which was filed by the police resulted in acquittal and therefore he may be released with all benefits. I have read the decisions given by the learned counsel for the first party carefully.

20. Against all this it was vehemently argued by the learned counsel for the second party that the first party has committed serious misconduct and this tribunal has no discretion to exercise powers under Section 11A of the Industrial Dispute Act. He cited decision in the case of Syndicate Bank Vs. General Secretary, Syndicate Bank Staff Association reported in 2000(5)SCC Page 65.

21. I have read the above decisions carefully. In the instant case, keeping in mind the principles held in the decision of the Hon'ble Supreme Court of India referred above I am of the opinion that this court has no discretion to invoke the provision of Section 11A, firstly because the domestic enquiry is held as fair and proper and secondly first party has not established that he informed the incident and took permission of his higher authority and left the work site on the day of suicidal incident. He has also not established that subsequently when the management gave telegram he went and reported the incident and applied leave. In the absence of all this it is very difficult to accept the arguments of the learned counsel for the first party.

22. Relying upon the decision of the Hon'ble Supreme Court/Syndicate Bank vs. Punjab Sind Bank Vs. Sakattar Singh I am of the opinion that this reference has no merit and accordingly I proceed to pass the following order :

ORDER

The reference is rejected.

(Dictated to PA transcribed by her corrected and signed by me on 9th July 2001)

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 16 अगस्त, 2001

का.आ. 2325—शौश्रीगिक विवाद अधिनियम, 1947 (1947 का (14) की धारा 17 के अनुभरण में, केन्द्रीय सरकार मालको माइन्स मेलम के प्रबंधनतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट शौश्रीगिक विवाद में केन्द्रीय सरकार शौश्रीगिक अधिकरण चेन्टर के पांचाल को प्रकाशित करनी है, जो केन्द्रीय सरकार को 14-8-2001 को प्राप्त हआ था।

[म. ए.ल-29012/55/98-प्राई आर (एम)]
बी.प्र.डे.विड, अवृत्त सचिव

New Delhi, the 16th August, 2001

S.O. 2325.—In pursuance of Section 17 of the Industrial Disputes Act 1947 (14 of 1947), the

Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the employers in relation to the MALCO MINES SALEM and their workmen which was received by the Central Government on 14-8-2001.

[No. L-29012/55/98/IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday, the 19th July, 2001

PRESENT :

K. Karthikeyan, Presiding Officer.

Industrial Dispute No. 534/2001

(Tamil Nadu State Industrial Tribunal

I.D. No. 139/98

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Workmen S|Sri V. Allimuthu and 40 others and the Management of Malco Mines, Salem.)

BETWEEN

1. The General Secretary, . . . I Party/Claimant.
Aluminium Thozhilalar Sangam.
Malco, Salem.

2. The General Secretary,
Shevaroys General Employees Union.
Vercaud.

AND

The General Manager, . . . II Party, Management.
Malco Mines, Salem.

APPEARANCE:

For the Claimant : Sri K. Nagarajan & V. K.
Nallamurthu, Union Representatives.

For the Management : M/s T. S. Gopalan & Co.
Advocates.

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned Industrial Dispute for adjudication vide Order No. L-29012/55/98/IR(M), dated 26-11-98.

This reference has been made earlier to the Tamil Nadu Industrial Tribunal, where it was taken on file as I.D. No. 139/98. When the matter was pending enquiry in that Tribunal, the Govt. of India, Ministry of Labour was pleased to order transfer of this case from that Tribunal to this Tribunal for adjudication. On receipt of records from that Tribunal, the case has been taken on file as I.D. No. 534/2001 and notices were sent to the Union Representative for the I Party and to the counsel on record for the II Party.

informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 9-3-2001. On receipt of notice from this Tribunal, the Union Representation for the I Party and the counsel for the II Party were present with their respective parties and prosecuted this case further.

This matter came up before me for final hearing on 19-6-2001, upon perusing the Claim Statement, Counter Statement other material papers on record, the oral evidence let in on either side and documentary evidence let in on the side of the II Party Management and upon hearing the arguments of the learned Union Representative for the I Party and the learned counsel for the II Party and this matter having stood over till this date for consideration, this Tribunal has passed the following:—

AWARD

The Industrial Dispute referred to in the above order of reference by the Central Govt. for adjudication by this Tribunal is as follows:—

“Whether the demand of Aluminium Thozhilalar Sangam and Shevaroys General Employees’ Union for employment of S|Sri V. Allimuthu and 40 other workmen is justified or not? If justified, to what relief they are entitled?”

2. The Industrial Dispute between the parties is briefly as follows:—

In the year 1965 the II Party|Management (hereinafter referred to as Respondent) put up a plant at Mettur Dam for manufacture of Aluminium ingots and wires. These aluminium products were manufactured by using bauxite ore procured from the mines at Yercaud and Kolli Hills in Salem District. In order to source the bauxite ore, at reasonable cost the Respondent took on lease bauxite mines in the Yercaud and Kolli Hills, from where it used to raise the ore and transport it to Respondent’s factory at Mettur dam R.S. In the bauxite mines at Yercaud, the Respondent used to employ workmen to do the work of facing, mining, removing and stacking the ore. The workmen employed by the Respondent in the mines primarily consisted of facers and helpers. In early 1980s there was severe power cut and as a result, the utilization of the plant capacity went down to as low as 20%. Consequently, there was huge accumulation of stock of bauxite ore at the mines site and the factory. In the aforesaid context, the mining activities had to be considerably curtailed. As a result of reduction of mining activities, on 13-9-82, 94 out of 180 workmen in the Yercaud mine were terminated by way of retrenchment. An industrial dispute was raised regarding the non-employment of 94 workmen. The said dispute was referred to the Tribunal in I.D. No. 1284. By an award dated 21-3-1989 the Tamil Nadu State Industrial Tribunal directed reinstatement of 94 workmen without back wages. Against that Award the Respondent preferred W.P. No. 12982/90. The High Court of Madras passed an order under section 17B of the Industrial Disputes Act in W.P. No. 7623/90 directing the Respondent to make one lumpsum payment of Rs. 2,000 each to 64 out of 94 workmen who presumably were alone pursuing the litigation. After 1987,

the factory operations proved to be unviable and the company came to be referred to the BIFR. The factory operations also came to a grinding halt in 1992. During the pendency of the proceedings before the BIFR, the operating agency identified a new promoter to take over the Respondent Company. The new promoter had discussions with the various constituents of the unit, namely, Creditors, Suppliers Govt. agencies and also the Workmen. On 25-10-93, a settlement was made under section 12(3) of the Industrial Disputes Act, by which the permanent workmen agreed for a wage freeze for a period of three years and they also agreed to receive their dues like bonus and arrears of wages after a period of three months from the date of re-opening of the mills. It was also aggrieved that the Respondent company would be at liberty to modernize, automat, expand the facilities or introduce changes in the methods of work and processes. When the settlement dated 25-10-94 was concluded, the parties also took up for discussion the issue of non-employment of 94 workmen who were retrenched in 1982. On 25-10-1994, the Respondent signed a settlement with the Petitioner Union under section 18(1) of the Industrial Disputes Act by which it agreed that these workmen will be paid a lumpsum compensation of Rs. 20,000 each and on payment of the said amount they shall have no claim against the company. It was also agreed that in the event of any vacancies being created in future, a list of 41 workmen to be furnished by the Union will be given preference for employment. The list of workmen given by the Union was annexed to the Settlement dated 25-10-1984 under section 18(1) of the Industrial Disputes Act. In respect of the mines at Yercaud, the Respondent had registered itself as a principal employer under the Contract Labour (Regulation & Abolition) Act and it has three contractors namely, M/s. Triveni Earthmovers, M/s. D&D Securities and Mr. F. Muthu. Out of these three Contractors Mr. E. Muthu was engaged for loading of ore since 1987 and was carrying out the job even at the time of Settlement dated 25-10-1984. M/s D&D Securities are engaged for providing security services and M/s. Triveni Earthmovers have been supplying earth moving and material handling equipments and related services. After the factory operations were resumed on 1-2-1995, the major requirement of bauxite ore was met from the mines in Koll Hills. As far as the Yercaud mines was concerned, the availability of bauxite ore was passed getting depleted with continuous rising of ore and thereby the number of workmen in the mines also came down. In fact, the total number of workmen employed in the mines in Yercaud which was 180 prior to 30-9-1982 came down to 51 in March, 1995 when the factory operations were resumed, it had further gone down to 34 on the date of reference and the present strength is 32. Even these 32 workmen could not be provided their facing and mining job and the Respondent was forced to use majority of them for non-productive jobs such as afforestation and other miscellaneous job not connected with mining. In the year 1996 the Respondent was contemplating expansion of aluminium plant at Mettur and for that purpose it wanted to augment the source on raising of bauxite ore. It was exploring new areas for mining and in that regard the Respondent approached the National Mineral Development Corporation. These activities of ex-

ploring of new areas of mining, provoked the Petitioner Union to make claim for employment to the 41 workmen whose names are mentioned in the Annexure to the 18(1) Settlement dt. 25-10-1994. The Union addressed a letter dated 11-10-96 making a demand for employment to the 41 workmen. While considering the said proposal, it was also felt that as a cost of raising bauxite ore was escalating phenomenally whether it will not be worthwhile to award a turn key contract to a third party possessing the necessary infrastructure to raise bauxite ore and deliver it at the Respondent's factory at Mettur for a fixed price per tonne. On 23-12-1996, the Respondent gave a paper publication floating tender inviting quotations of the Award of contract. However, the proposal did not materialize and it was not pursued. At this stage after seeing the advertisement the first and second petitioner addressed a letter dated 23-1-1997 to the Regional Labour Commissioner (Central), Madras stating that the company has floated a tender calling for contractor for breaking screening and loading the upgraded ores into the lorries for despatch to the company's factory at Mettur. By another letter, the second petitioner had stated that by the Settlement dated 25-10-94 in the event of any recruitment being made, preference should be given to 41 workmen listed by the Union and that the Respondent was engaging contract labourer without considering those 41 workmen and those 41 workmen should be provided employment in terms of the Settlement dated 25-10-94.

3. The Petitioner Union had further contended that without providing employment for these 41 workmen, the Respondent/Management is recruiting new workmen both for their Mettur Maleo factory and their mines at Koll Hills. The industrial dispute raised by the Petitioner Union before Assistant Commissioner of Labour (Central) for conciliation was ended in a failure, hence this reference has been made by the Govt. as an industrial dispute for adjudication by this Tribunal.

4. It is the contention of the Respondent/Management that 12.3. settlement dated 25-10-94 gave absolute discretion to the Respondent to take such measures as are necessary for sustaining the viability of the operations and therefore, there was no prohibition for engagement of contract labour for any operation. Moreover, the settlement sought to protect only the employment of the existing workmen and even the opportunity for the future employment to those 41 workmen was restricted to any appointment which may be made against vacancies arising out of the cessation of employment of the existing workmen. Therefore, it was not open to the Petitioner Union to demand employment to the 41 workmen based on allegation that the Respondent was engaging contract labour. In anywhere the Respondent does not admit that it had engaged any contract labour much less on jobs which could be carried out by any of the 41 workmen. The Petitioner Union is put to strict proof for the allegations that the Respondent had appointed any persons over looking the claims of 41 workmen.

5. When the matter was came up for enquiry, when it was pending before the Tamil Nadu Industrial Tribunal documents were marked by consent of both the parties

as Ex. M1 to M4. One workman, Mr. Murugesan was examined as WW1 and on the side of the Management one Engineer by name Sri R. Chandrasekaran was examined as MW1 and additional documents were marked as exhibits M13 and M14. At this stage, as per the orders of the Central Government this dispute has been transferred to the file of this Tribunal for adjudication. Subsequent to the transfer of this case to this Tribunal and taken on file as I.D. No. 534/2001, when the matter was came up for final hearing, the Representative of the I Party Union and the learned counsel for the II Party/Management had advanced their arguments.

6. The point for my consideration is :—

“Whether the demand of Aluminium Thozhilalar Sangam and Shevaroys General Employees’ Union for employment of S/Shri V. Allimuthu and 40 other workmen is justified or not ? If justified, to what relief they are entitled ?”

Point.—The two Unions as Petitioners have raised this industrial dispute alleging that the 41 workmen mentioned in the annexure to the schedule of reference to re-employ by the Management of Malco Mines and their demand made to that effect to the Management has not been complied with. It is the contention of both the Petitioners Union that the said 41 workmen were the permanent employees of the Respondent/Management for so many years and at the time of reduction of mining activities by the Respondent/Management, 94 employees in the Yercaud mines were terminated by way of retrenchment by the Respondent/Management. This has been admitted by the Respondent in their Counter Statement. In addition to that it is the contention of the Respondent in their Counter Statement that regarding the non-employment of the 94 workmen, an industrial dispute was raised as I.D. No. 12/84 before the Tamil Nadu State Industrial Tribunal, Chennai and an award dated 31-10-89 was passed by the Tribunal directing the reinstatement of those 94 workmen without back wages. Against that Award passed by the Tribunal, the Respondent/Management had preferred W.P. No. 12982/89 in the High Court of Madras and the High Court was pleased to pass an order in W.M.P. No. 7633/90 directing the Respondent to make one lumpsum payment of Rs. 3,000 to each 64 out of 94 workmen who presumably were alone pursuing the litigation. These averments of the Respondent/Management in the Counter Statement has not been denied by the Petitioners Union.

7. The Petitioners Union have averred in their separate Claim Statements that in pursuance of the retrenchment of 94 employees by the Respondent/Management they have raised an industrial dispute before the Assistant Commissioner of Labour (Central) and a settlement has been arrived at before him under section 12(3) of the I.D. Act, on 25-10-94. It is admitted by the Respondent/Management in the Counter Statement and they would further state that a list of workmen given by the Union was annexed to that Settlement and by that Settlement it was agreed that those workmen will be paid a lumpsum compensation of Rs. 20,000 each and on payment of the

said amount they shall have no claim against the company. It is further contended by the Management in their Counter Statement that it was also agreed in that Settlement that in the event of any vacancies created in future, the 41 workmen mentioned in the annexure list, will be given preference of employment. This has been admitted by the Petitioners in their Claim Statement in para 3 stating that clause No. 16 in that Settlement provides for one such right of priority for that 41 workmen/employees. But the Petitioner Unions have contended in their Claim Statement that without providing employment for these 41 employees, the Respondent/Management have recruited new employees in the Mettur Malco Mines and also mines at Kolli Hills. They have also averred in the Claim Statement that workmen were employed under contract basis also and in respect of the same the industrial dispute raised by the Union before the Assistant Commissioner of Labour (Central) was ended in a failure. So he submitted a failure of conciliation report.

8. On behalf of the Petitioner Unions one Sri K. Murugesan, Member of the I Party, Aluminium Thozhilalar Sangam, Mettur Dam has been examined as Workman, Witness No. 1. He has admitted in his evidence that an industrial dispute has been raised as I.D. No. 12/84 against the retrenchment of 94 workmen by the Respondent/Management in 1982 and an award was passed by the Industrial Tribunal on 31-3-1989 directing the Respondent/Management to reinstate those 94 workmen without back wages and the Respondent/Management filed a Writ Petition No. 12992/89 and the High Court of Madras was pleased to pass an order in WMP No. 7633/90 directing the Respondent/Management to make one lumpsum payment of Rs. 3,000. He has also admitted in his evidence that a settlement was arrived at in the presence of Assistant Labour Commissioner (Central) on 25-10-94, wherein it was agreed when the conditions of the mine industry of the Respondent, Management improved, employment will be given to the workmen not less than 41 listed by the Union. He has also stated that in that Settlement it was agreed that the workmen will be paid a lumpsum compensation of Rs. 20,000. The xerox copy of those Settlements have been marked as Ex. M2 and M3 respectively. It is his further evidence that the Respondent/Management subsequent to those two Settlements has engaged many workmen like them directly and employed them in the Yercaud mines and Malco Mines at Mettur through contractors, but the Respondent/Management has denied them employment as per the Settlements, though the Respondent/Management have not given them employment. In the cross examination WW1 has admitted that he worked in the bauxite mines of the Respondent/Management and the Respondent/Management has got another such mines at Kolli Hills. He has admitted that for the removal of the bauxite ore from the mines, the vehicles of the other private agencies were used, but he does not know who is the owner of that private agency. He has also stated in the cross examination that they demand employment instead of contract workers and he does not know how many permanent employees are there in the mines and he does not know whether the Management has employed any permanent workmen subsequent to 1994 ? One Mr. Chandrasekaran, who has been examined as Manager

ment witness, had deposed that when the case was raised there were only 34 direct employees and on 5-8-2000, voluntary retirement scheme was enforced, and at that time all the 28 workmen in service were opted for that voluntary retirement scheme and retired. It is his further evidence that the mine operation is being done by leasing it to the private agencies under Contract and the amount has been disbursed to them, according to the quantum of bauxite ore brought from the mines and hence there is no scope for giving employment for the Claimant/Workmen. Ex. M13 is a xerox copy of notice of voluntary retirement scheme proposed by the Management. The applications given by 28 workmen opting to retire voluntarily under the voluntary retirement scheme and the Management's reply accepting their cessation of employment and the full and final settlement receipt have been filed on the side of the Management in xerox copies as Ex. M14 series (pages from 3 to 86). The xerox copy of the Muster Roll for March, 1995, December, 1998 and August, 1999 have been marked as Ex. M4 to show that the workmen employed by the Management have been reduced in due course, due to the reduction in mining work and depletion of the bauxite ore in the mines. In his evidence, MW1 in the cross examination has stated that as per Ex. M4 48 workmen are in employment and one Pushparaj is not in employment now. He has also stated that it is incorrect to state that 44 workmen are employed from August, 2000. Objecting to the Respondent/Management employing workmen under contract labour and demanding employment for the 41 workmen as per the settlement dated 15-10-1994, the 2nd Petitioner Union has sent a letter to the Respondent/Management. A xerox copy of the same is Ex. M5. Ex. M6 is the xerox copy of the paper publication made in 'Thina Thanthi' dated 23-12-1996 by the Respondent/Management. Under this paper advertisement, tenders from the experienced mining contractors were invited by the Respondent/Management for the ore breaking, screening and loading the upgraded ore into the lorries for despatch to the company's factory at Mettur. The Petitioner No. 2 had sent a letter dated 10-1-97 to the Chief Labour Commissioner, New Delhi informing him about the action of the Management calling for contractors for mining work. The xerox copy of that letter is Ex. M7. Ex. M9 is the xerox copy of similar letter dated 23-1-97 sent by 1st Petitioner Union to the Chief Labour Commissioner, New Delhi. They have also informed him that the Respondent/Management has called for contractors for mining work. The National Mineral Development Corporation Ltd., a Government of India Undertaking had sent a letter dated 10-3-97 to the Respondent/Management. The xerox copy of the same is Ex. M8. It is with regard to exploration work at Yercaud and Kolli Hills. The Ex. M10 is the xerox copy of the Form I application for Registration by the Respondent/Management regarding employing contract labour. Under this form the Respondent/Management has given particulars of contractors and contract labour and nature of work in which contract labour is employed. Ex. M11 and M12 are the xerox copies of the letters sent by Respondent/Management to the Assistant Labour Commissioner (Central) in respect of submission of application for registration of establishment employing contract labour in Form I. It is the definite averment of the Respondent/Man-

agement in their Counter Statement that in respect of mines at Yercaud, the Respondent had registered itself as a principal employer under the Contract Labour (Regulation & Abolition) Act and that it has three contractors namely M/s. Triveni Earthmovers for supplying earth moving and material handling equipments and related services, one M/s. D & D Securities for providing security services and Mr. E. Muthu for loading the ore in the vehicles to carry them to their mines factory at Mettur Dam. For this only, the Respondent/Management had registered themselves as principal employers by presenting Form I application for registration regarding employing contract labour. Copy of the same is Ex. M10. This specific averment in the counter statement of the Respondent/Management has not been disputed. Only because of this action of the management, the Petitioner Unions had sent letters to the Central Labour Commissioner, New Delhi under the originals of Ex. M7 and M9. It is the contention of the Respondent/Management that after the factory operations were resumed on 1-2-95 their major requirement of bauxite ore was met from the mines in Kolli Hills. As far as the Yercaud mines are concerned, the availability of bauxite ore was fast getting depleted with continuous raising of ore and thereby the number of workmen in the mines also came down. Further it is averred in the Counter Statement of the Respondent/Management that in the year 1996 the Respondent was contemplating expansion of aluminium plant at Mettur and for that purpose, it wanted to augment the source of raising of bauxite ore, for that the Management was exploring new areas for mining and in that regard the Respondent approached the National Mineral Development Corporation Ltd. Ex. M8 is the xerox copy of letter from National Mineral Development Corporation Ltd. to the Respondent. All these things have not been disputed by the Petitioner Unions. Having found that the activities of exploring new areas of mining will not be viable, the Respondent/Management thought it fit to entrust the work of raising bauxite ore and deliver it at the Respondent's factory at Mettur for a fixed price per tonne to third party contractors possessing the necessary infrastructure. So they gave a paper publication inviting tenders for that contract. But that proposal having not materialized, the Respondent has not pursued it. All these averments mentioned by the Respondent in their Counter Statement also have not been disputed by the Petitioner Unions.

9. It is not the case of Petitioners Unions that subsequent to the settlement dated 25-10-94, the Respondent/Management has created any new vacancy or made any permanent appointment. As per the 12(3) Settlement dated 25-10-1994, if and when future vacancies arise and are filled in by the Management, the Management will give preference of employment upto a maximum of 41 among the ex-workmen, subject to their being found suitable as per the list provided by the two Unions. It is the definite averment of the Respondent/Management in the Counter Statement that the respondent has not made any appointment against any vacancy. To disprove this, the petitioner unions have not placed any material evidence before this Tribunal that the Respondent/Management has violated the terms of the settlements dated 25-10-1994.

10. It is further contended in para 11 of the Counter Statement of the Respondent that the 12(3) settlement dated 25-10-94 gave absolute discretion to the respondent to take such measures as are necessary for sustaining the viability of the operations and therefore, there is no prohibition for engaging contract labour for any operation. It is specifically averred in the Counter Statement that the Respondent had not engaged any contract labour much less on jobs which could be carried out by any of the 41 workmen. These averments have not been disproved as incorrect with material evidence by the Petitioner Unions. The learned counsel for the Respondent/Management has brought to the notice of this Tribunal about Clause No. 14 in the Memorandum of Settlement arrived between the Respondent/Management and the Petitioner Unions in Ex. M2. In that Clause it is stated that 'the company will have absolute discretion in the matter of its manpower requirements and therefore, filling up of vacancies will be subject to the exercise of such discretion'. Clause 10 of the Settlement reads that "with a view to ensure sustain viability of operations the company will be at liberty to modernize, automat or expand the facilities or introduce changes in the methods of work or processes or change of lay out etc. and the workman shall not obstruct the same so long as by reason of such modernization, modification, automation, expansion or change of methods or lay out etc., there is no retrenchment of workmen. As these matters fall within the purview of the managerial functions, we shall not be subjected to any discussion or negotiation with the workmen". So in view of these Clauses in the agreed Settlement, it is not open to the Petitioner Unions now to object for the steps being taken by the Respondent/Management which are viable for carrying out the industrial operations in a profitable way. Under such circumstances, it is seen that there cannot be any prohibition for engagement of contract labour for any operation. From the Settlement it is seen that it sought to protect only the employment of the existing workmen and even the opportunity for future employment to these 41 workmen was restricted to any appointment which may be made against vacancies arising out of cessation of employment of the existing workmen. So, as rightly contended by the Respondent/Management in their Counter Statement that it is not open to the petitioner Unions to demand employment to the 41 workmen based on an allegation that the Respondent/Management was engaging contract labour. Further for that allegation that Respondent/Management had engaged contract labour for the jobs which could be carried out by any of the 41 workmen no substantial evidence has been placed before this Tribunal. Under such circumstances, it can be easily concluded that the demand of the Petitioner Unions for employment of 41 workmen mentioned in the annexure to the Schedule of reference is not justified. Hence, these workmen are not entitled to any relief, they prayed for. Thus, I answer the point accordingly.

11. In the result, an award is passed holding that the demand of the Petitioner Unions for employment of S/Shri Allimuthu and 40 other workmen mentioned in the annexure to the Schedule of reference is not justified. Hence, the concerned workmen are not entitled to any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 19th July, 2001.)

K. KARTHIKEYAN, Presiding Officer
Witnesses Examined :

For the I Party/Claimant :—

WW1—Shri Murugesan.

For the II Party/Management :—

MW1—Shri R. Chandrasekaran.

DOCUMENTS MARKED :—

For I Party/Claimant : Nil.

For the II Party/Management :
Ex. No. Date Description

M1 20-09-71—Xerox copy of certificate of registration in Form II under Contract Labour Act.

M2 25-10-94—Xerox copy of Settlement under Section 12(3) of the Industrial Disputes Act, 1947 between the Respondent and the Unions during the course of conciliation proceedings before the ALC(C)-I, Chennai.

M3 25-10-94—Xerox copy of settlement under Section 18(1) of the I.D. Act, Act, 1947 between the Respondent and Unions.

M4 March, 95—Xerox copy of Muster Rolls. December, 1998. August, 1999.

M5 11-10-90—Xerox copy of letter from the 2nd Petitioner Union to the Respondent regarding appointment of contractor.

M6 23-12-96—Xerox copy of Newspaper publication inviting tenders.

M7 10-01-97—Xerox copy of letter from the 2nd Petitioner Union to the Chief Labour Commissioner, New Delhi.

M8 10-03-97—Xerox copy of letter of National Mineral Devept. Corporation Ltd. addressed to the Respondent.

M9 23-6-97—Xerox copy of letter from the 1st Petitioner Union to the Chief Labour Commissioner.

M10 05-11-98—Xerox copy of application for Registration of Establishments employing contract labourers under contract Labour (Central) Rules, 1971.

M11 05-11-98—Xerox copy of letter from the Respondent to the Assistant Labour Commissioner (C), Chennai.

M12 03-06-99—Xerox copy of letter from the Respondent to the Assistant Labour Commissioner (C), Chennai.

M13 05-08-2000—Xerox copy of notice of voluntary retirement scheme exhibited by the management.

M14 Nil—Xerox copy of application from 28 workmen opting to retire voluntary under the Voluntary Retirement Scheme announced by the Respondent, Management's reply accepting their cessation of employment and full and final settlement receipt.

नई दिल्ली, 16 अगस्त, 2001

कानू. 2326:—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ओलागपा सीमेंट्स प्रा. लि. के प्रबंधतंत्र के संदर्भ नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकारण बेन्फिके पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-08-01 को प्रत्यक्ष कुप्रा था।

[म. एल-29012/71/96-प्राइवे (एम)]

द्वा. एम. डेविड, अवर मचिव

New Delhi, the 16th August, 2001

S.O. 2326.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Alagappa Cements Pvt. Ltd. and their workman, which was received by the Central Government on 14th August, 2001.

[No. L-29012/71/96-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Monday, the 23rd July, 2001

Present : K. KARTHIKEYAN, Presiding Officer

INDUSTRIAL DISPUTE NO. 411/2001

(Tamil Nadu State Industrial Tribunal I.D. No. 101/96)
(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Dispute Act, 1947 (14 of 1947), between the Workman Shri M. Chandrasekar and the Management of M/s. Alagappa Cements Pvt. Ltd.)

BETWEEN

Sri M. Chandrasekar I Party/Workman

AND

The Managing Director, II Party Management
M/s. Alagappa Cements
Pvt. Ltd.

Kilapaluvur,
Appearance:

For the Workman M/s. D. Hariparanthaman
& Ajoy Khose, Advocates

For the Management : M/s. T.S. Gopalan & Co.
Advocates

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned Industrial Dispute for adjudication vide Order No. L-29012/71/96-IR (Misc) dated 25-11-1996.

This reference has been made earlier to the Tamil Nadu Industrial Tribunal, where it was taken on file as I.D. No. 101/96. When the matter was pending enquiry in that Tribunal, the Govt. of India, Ministry of Labour was pleased to order transfer of this case from that Tribunal to this Tribunal for adjudication. On receipt of records from that Tribunal, the case has been taken on file as I.D. No. 411/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 25-02-2001 with their respective parties. On receipt of notice from this Tribunal, counsel on either side present with their respective parties and prosecuted this case further.

This matter came up before me for final hearing on 14-06-2001, upon perusing the Claim Statement, Counter Statement, the other material papers on record, and upon perusing the documentary evidence let in on the side of the Management and upon hearing the arguments of learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following:

AWARD

The Industrial Dispute referred to in the above order of reference by the Central Govt. for adjudication by this Tribunal is as follows:

“Whether the action of the Management of M/s. Alagappa Cements Pvt. Ltd. in terminating the services of Sri M. Chandrasekar with effect from 2-9-1993 is justified? If not, to what relief he is entitled?”

2. The Industrial Dispute between the parties is briefly as follows:

The I Party/Workman Sri M. Chandrasekar (hereinafter referred to as Petitioner) is a Science Post Graduate in Geology and also a Law Graduate.

He was appointed by the II Party/Management (hereinafter referred to as Respondent as Geologist on 16-4-1986. The Respondent's mines is an open limestone mine which is spread over to 185 acres. The petitioner was paid a meagre consolidated salary. He was in the service of the Respondent/Management for about eight years. During the first week of October, the Petitioner fell ill and submitted a leave application seeking leave from 6-10-92 to 25-11-92. When the Petitioner was on medical leave, the Respondent sent an emergency telegram requesting him to report for duty as the officials from the Indian Bureau of Mines were visiting the Respondent's mines. Inspite of his ill health, since his presence was required necessary and important by the Management, the Petitioner reported for duty on 18-11-1992 to 29-11-1992. This aggravated the health of the Petitioner and he was compelled to go again on medical leave from 30-11-1992 to 15-12-1992. The Petitioner submitted a leave application for the same. The Petitioner's mother also fell ill and suffered severe heart-attack, therefore, he sought extension of leave upto 25-12-1992 by his letter dated 14-12-1992. When the Petitioner took his mother to Trichy Hospital, the Doctor at Trichy referred her to Tanjavur hospital. From there, he had to take his Mother to MMC and Stanley Hospital at Madras. Since there was no improvement in the health of his Mother, he finally admitted her in Zimper Hospital at Pondicherry. There a cardiac surgery was performed to his Mother, and the pace maker was planted. Therefore, the Petitioner extended his leave for 15 days from 24-12-1992, as there was nobody to look after his Mother at the hospital and to get her treatment continuously, the petitioner had to stay with his Mother at the hospital. Because of this, his health also got affected and he had to take treatment for him also. Only in these circumstances, the Respondent/Management sent a show cause memo dated 8-1-93 stating that the Petitioner was taking leave continuously and why disciplinary action should not be taken against him. The Petitioner sent a reply dated 18-1-1993 giving reasons for taking leave under unforeseen and unavoidable circumstance. He had also enclosed medical certificate. The Management without accepting his explanation issued a charge sheet dated 1-2-1993. The Petitioner has submitted his explanation dated 13-2-1993 to the chargesheet reiterating the facts he had stated in his earlier letter dated 18-1-1993. When the Petitioner went to the mines in person, he was not allowed to report for duty. The security guard told the Petitioner that he could not allow the Petitioner to enter into the mines without getting permission from the Management. He further told the Petitioner that all the officials were at the factory, since the workmen were going on strike. Therefore, the Petitioner went to the factory and met

the Mines Manager on 8-2-1993 and informed him about the facts. The Mines Manager informed the Petitioner that the Managing Director was not interested in continuing the services of the Petitioner and told to settle his accounts. The Mines Manager did not allow the Petitioner to sign the attendance register and did not provide him work. He further told the Petitioner that he has no powers to allow him to report for work, since show cause notice has already been issued, only after getting permission from the Managing Director he could allow him to work. But, thereafter there was no communication from the Respondent to the Petitioner. The Management ordered for enquiry. Sri A. E. John, Foreman was appointed as Management Representative. Except the said Sri A. E. John, no other witnesses were examined for the Management. For the Petitioner, he himself was examined and medical certificates and bills were marked as his documents. Contrary to the evidence and materials on record, the Enquiry Officer submitted his findings dated 29-6-1993, which is biased and perverse. The Management mechanically accepted his findings without applying its mind, and issued a second show cause notice dated 9-8-93 as to why he should not be terminated from service. The Petitioner submitted his explanation dated 14-8-1993 and requested the Management to drop the proceedings. But the Management dismissed the Petitioner from service by an order dated 2-9-1993. The absence of the Petitioner for work after submitted leave application cannot be termed as 'unauthorised absence'. Dismissing the Petitioner from service amounts to victimisation. Without taking into account the relevant documents, the Enquiry Officer had given a perverse findings. There is no evidence to prove that the leave applications were refused or rejected. The letter dated 19-12-1992 alleged to have been sent to the Petitioner was returned on 30-12-1992 with an endorsement that the Petitioner was out of station. When the Petitioner reported for work, after his leave, he was not allowed to work. Before imposing the punishment of dismissal from service, the Respondent had failed to take into account the eight years of service of the Petitioner. The Petitioner raised an industrial dispute about his non-employment. As the Labour Commissioner was not able to bring out any mediation, on his report of failure of conciliation, the Govt. has referred this matter to this Tribunal for adjudication. Hence, the Tribunal may be pleased to pass an award holding that the dismissal of the Petitioner from service is unjustified and direct the Respondent/Management to reinstate the Petitioner with continuity of service and back wages.

3. The Respondent has opposed the averments of the Petitioner in his Claim Statement would contend in their Counter that for the purpose of sourcing the

raw material for the cement plant of the Respondent/Management, they have taken on lease two limestone mines in Pudupalayam, Ariyalur Taluk, Perambalur District. The Petitioner was employed as Geologist for the purpose of locating the limestone deposits and plan for optimum raising of limestone. After the year 1991, the Petitioner was nurturing a grievance that he was not adequately paid. Added to it, he was discretely helping other small mine owners in that area obviously for consideration. The Petitioner became indifferent towards work and at the slightest provocation, he stayed away from duty. By September 1992 he had absented for 50 days. On 06-10-92, he applied for leave on the ground of sickness for 14 days. By a letter dated 'nil' he again applied for leave from 26-10-92 to 31-10-92 on the ground of ill health. He applied for extension of leave from 01-11-1992 to 09-11-1992. On 10-11-92, he applied for further leave upto 25-11-1992. On 18-11-92, he cancelled his leave and resumed duty. For the chronic absence for duty by the Petitioner the Respondent sent a memo on 8-1-93 calling upon him to show cause why action should not be taken for his absence without leave. He sent a reply dated 18-1-1993 asking for leave till the end of the January, 1993. The charge sheet was issued to the Petitioner for his misconduct of unauthorised absence. He gave a reply denying that charges. An enquiry was conducted, wherein the Petitioner was given opportunity to vindicate his stand. The Enquiry Officer gave his report on 29-6-93 holding that the charge against the Petitioner was duly established. On 9-8-93, the second show cause notice proposing termination was issued to the Petitioner. On 14-8-93, the Petitioner gave his reply. After considering the representation, the Respondent has passed orders on 2-9-1993 terminating the services of the Petitioner. No medical certificate was produced by the Petitioner during the period October, 1992 and February, 1993. Mere submission of leave application for availing the leave to his credit would not entitle the Petitioner to sanction leave as a matter of right or as a matter of course. The leave applied for by the Petitioner was refused and the same was communicated. At no point of time, the Petitioner had produced any medical certificate. The Enquiry Officer was justified in holding that the Petitioner was guilty of the charge. The Petitioner wanted some monetary compensation after the termination of service. The Respondent could not agree for the same. The Petitioner was working as Consultant for many other limestone mines in Tamil Nadu and Pondicherry. The Respondent has lost confidence in the Petitioner and therefore, it will not be possible to employ the Petitioner in the service of the Respondent. Hence, this Hon'ble Tribunal may be pleased to pass an award dismissing the dispute and rejecting the claim.

4. When the matter was taken up for enquiry, except the documents on the Respondent side, marked as M1 to M38 by consent of both the parties before the Tamil Nadu State Industrial Tribunal, no fresh oral or documentary evidence had let in on either side. The learned counsel for the parties on either side had advanced their arguments.

5. The point for my consideration is :

"Whether the action of the Management of M/s. Alagappa Cements Pvt. Ltd. in terminating the services of Sri M. Chandrasekar with effect from 2-9-1993 is justified ? If not, to what relief he is entitled ?"

Point :

The Petitioner Sri M. Chandrasekar was employed as Geologist in the Respondent Alagappa Cements Pvt. Ltd. for the purpose of reporting the limestone deposits in the two limestone mines, taken on lease by the Respondent/Management, for the purpose of sourcing the raw material for their cement plant. The Respondent/Management had issued a charge sheet dated 1-2-93 to the Petitioner. The xerox copy of the same is Ex. M13. In the charge-sheet, it is alleged that the Petitioner has sent six letters requesting leave on medical reasons and finally sent telegram dated 28-12-92 or extension of leave for 15 days from 24-12-92. The xerox copies of the Petitioner's letters seeking leave on medical grounds dated 6-10-92, 26-10-92, 01-11-92 and 10-12-92 are Ex. M1 to M4. In between, he joined duty on 18-11-92 cancelling his leave applied for from 14-11-92 to 25-11-92. The xerox copy of that letter dated 18-11-92 is Ex. M5. Again by an undated letter he applied for leave from 30-11-92 to 15-12-92. The xerox copy of the same is Ex. M6. The Respondent/Management, after the receipt of the letter for the leave asked for under Ex. M6, sent a letter under Registered Post with acknowledgement, dated 3-12-92 informing the Petitioner that the leave asked for cannot be granted. The xerox copy of that letter of the Management is filed as a record on the side of the Management. The learned counsel for the Petitioner has not given consent for that letter stating that the Petitioner has not received one such letter. But the same has been marked in the domestic enquiry as Ex. M4. In that letter, the Petitioner was directed to report for duty immediately. Again the Petitioner has sent a letter dated 14-12-92 for extension of leave upto 25-12-92. The xerox copy of the same is Ex. M7. Then the Respondent/Management had sent a letter dated 19-12-92 by registered post with acknowledgement due to the Petitioner, directing him to report for duty on

or before 22-12-92. The xerox copy of the same is Ex. M8. That letter was returned unserved with a postal endorsement on the cover as 'not found'. The xerox copy of that returned cover is Ex. M9. Ex. M10 is the xerox copy of the telegram sent from Pondicherry by the Petitioner to the Respondent with a request for extension of medical leave of 15 days from 24-12-92. Then the Respondent has issued a memo to the Petitioner by Registered Post for his unauthorised absence from duty. The xerox copy of that memo dated 8-1-93 is Ex. M11. Ex. M12 is the xerox copy of reply dated 18-1-93 sent by the Petitioner for the memo under Ex. M11. For the charge-sheet under Ex. M13, the Petitioner has given a written explanation dated 13-2-93. The xerox copy of the same is Ex. M14. Ex. M15 is the xerox copy of letter dated 2-4-93 sent to the retired Deputy Commissioner of Labour appointing him as an Enquiry Officer for the domestic enquiry. Ex. M16 is the xerox copy of letter dated 2-4-93 sent by the Respondent/Management to the Petitioner informing him about the appointment of Enquiry Officer. Ex. M17 to M23 are the xerox copies of the notices of domestic enquiry conducted by the Enquiry Officer. Ex. M24 is the xerox copy of the proceedings of the enquiry conducted by the Enquiry Officer on different dates. Ex. M25 is the written submission dated 21-6-93 filed by the Petitioner to the Enquiry Officer with enclosures. Ex. M26 is the xerox copy of the report submitted by the Enquiry Officer with his findings. In that report the Enquiry Officer has given his finding that the charges levelled against the Petitioner under the charge sheet dated 1-2-93 have been proved beyond doubt. Then the petitioner was issued a second show-cause notice dated 9-8-93 by the Respondent/Management calling for explanation against the proposed punishment of termination from service. The xerox copy of the same is Ex. M27. The Petitioner has submitted his explanation dated 14-8-93. The xerox copy of the same is Ex. M28. The Respondent/Management had passed an order dated 2-9-93 terminating the Petitioner from service. It was sent by Registered Post to the Petitioner. Ex. M29 is the xerox copy of the postal acknowledgement of the receipt of order of punishment imposed by the Respondent/Management under Ex. M28. The Respondent/Management has sent a letter dated 6-9-93 by Registered Post enclosing a cheque for Rs. 11,840/- in full settlement of the dues to the Petitioner. The xerox copy of that letter is Ex. M30. That letter was returned unserved with the postal acknowledgement as 'not found, return to sender'. The xerox copy of that returned registered postal cover is Ex. M31. Again the Respondent/Management has sent a letter dated 5-11-93 to the Petitioner enclosing the said cheque. That was also returned unserved with the postal acknowledgement. A xerox

copy of the same is Ex. M32. Ex. M33 is the xerox copy of the appeal presented by the Petitioner to the Chairman of the Respondent/Management. Ex. M34 is the xerox copy of an order dated 5-11-93 by the Chairman of the Respondent/Management rejecting the appeal filed by the Petitioner. The Petitioner, after receiving the letter dated 5-11-93 from the Respondent alongwith the cheque issued by the Respondent/Management for the dues, sent a reply dated 18-11-93 returning the cheque for Rs. 11,840/- stating that he has raised an industrial dispute before the Regional Labour Commissioner (Central). The xerox copy of that letter is Ex. M35. Ex. M36 is the xerox copy of 2A petition filed by the Petitioner before the Labour Enforcement Officer, Trichy. The Respondent/Management have set their remarks on the Petition filed by the Petitioner. The xerox copy of the covering letter dated 30-12-93 is Ex. M37 and the xerox copy of the remarks submitted by Respondent/Management to the Labour Enforcement Officer, Trichy is Ex. M38.

6. All the documents exhibited on the side of the Respondent/Management have not been disputed by the Petitioner. But he would contend that the Enquiry Officer submitted his findings in a biased and perverse manner and those findings were not based on documents and materials on record and that the Management mechanically accepted his findings without applying its mind. It is his further contention that he took leave only after submitting proper leave application and therefore, it cannot be termed as 'unauthorised absence' and that he availed leave only on medical grounds due to his ill health and the ill health of his Mother and the Petitioner had produced medical certificates as documentary evidence for the same. It is not the case of the Management that the reason for taking leave was not correct and the leave application for the Petitioner was not refused by the Management. It is his further contention that the letter dated 19-12-92 said to have been sent to the Petitioner was returned with the postal endorsement that the Petitioner was out of station. So, there is no service of this letter and hence it could not be termed as refusal of leave and the same has been communicated to the Petitioner. It is not the case of the Petitioner that the Management has sanctioned leave for the period of his absence on various spells. A charge-sheet has been issued on 1-2-93 charging him with the misconduct of absence from duty unauthorisedly for a long period. It is admitted that the Respondent/Management has conducted a domestic enquiry by a retired officer of the Labour Department. It is seen from Exhibits M15 to M24 a domestic enquiry has been conducted by the Respondent/Management to enquire into the charges levelled against the Petitioner/Workman

under Ex. M13. In the charge-sheet itself, it is clearly stated that the Petitioner/Workman has applied for leave by his six letters and one telegram and that the leave requested by him for the periods 6-10-92 to 20-10-92, 26-10-92 to 17-11-92 and 30-11-92 to 07-01-93 have been refused and there is no application for leave beyond 7-1-93 and the Petitioner/Workman remained absent unauthorisedly and without intimation beyond 7-1-93 and it amounts to serious misconduct. The proceedings of the enquiry Ex. M24 shows clearly that the Petitioner/Workman has taken part for the entire domestic enquiry and has cross-examined the Management witness. Though the Petitioner/Workman took time to produce his witness and examined as defence witness on his side, he has informed the Enquiry Officer that he has no witness to be examined. The Petitioner/Workman as a delinquent employee has given a statement about his defence, in pursuance of the same, he was cross-examined by the Management Representative. Subsequently, the Petitioner/Workman has submitted his written submission to the Enquiry Officer with enclosure. The xerox copy of the same is Ex. M25. After analysing the entire evidence and documents on either side and the material papers, the Enquiry Officer has submitted his report Ex. M26 holding that the charges mentioned in Ex. M13 charge-sheet have been proved. All these things go to show the Petitioner was given every opportunity to vindicate his stand. A perusal of the report of the Enquiry Officer clearly shows that he has given his findings based on the documents and materials on record. Hence, it cannot be said that the Enquiry Officer has given his findings without any basis and his findings are biased and perverse. Under such circumstances, any inference with the findings of the Enquiry Officer in his report by this Tribunal is unwarranted.

7. The learned counsel for the Petitioner has put forth an argument that the petitioner is not a habitual absentee and the leave he applied for under Ex. M1 to M4 have been sanctioned by the Management. But in the charge-sheet Ex. M13, it is stated that the leave applied for by the Petitioner under Ex. M1 to M3 and for the period from 18-11-92 to 25-11-92 under Ex. M4 have been refused by the Management. It is admitted that under Ex. M5 dated 18-11-92 the Petitioner had reported for duty on 18-11-92 and requested the Management to cancel the leave he applied for under Ex. M4 from 18-11-92 to 25-11-92. In Ex. M14 itself, the Petitioner has admitted that when he was away from his place, the letter sent by the Management might have gone to his house and in his absence it was returned undelivered, but he has not refused to receive the same. Ex. M12 is the reply of the Petitioner to the Management letter dated 8-12-93 under Ex. M11. In Ex. M11, it is clearly stated that inspite of receipt of letters from

the Management the Petitioner has not rejoined duty. The learned counsel for the Petitioner also has admitted that the period subsequent to Ex. M12 is the period of unauthorised absence of the Petitioner/Workman. The learned counsel for the Petitioner has stated that he has not attacking the enquiry as such. It is his further contention that the charges levelled against the Petitioner in the charge sheet have not at all been proved and hence the findings given by the Enquiry Officer in his report that the charges have been proved are incorrect. A perusal of the enquiry report Ex. M26, clearly shows that after analysing the entire oral and documentary evidence let in before him, the Enquiry Officer has given a finding that the charges levelled against the delinquent employee, the Petitioner herein has been proved. So the argument advanced by the learned counsel for the Petitioner that the findings of the Enquiry Officer in his report that the charge levelled against the Petitioner/Workman is proved, is without any evidence and perverse cannot be accepted a, correct.

8. The learned counsel for the Respondent/Management has advanced an argument that unless the leave is sanctioned or granted, it cannot be considered that the absence from duty on submission of leave application as an authorized one and one cannot presume sanction of leave by the Management merely by production of the leave application by the workman. Leave cannot be claimed as a matter of right. This submission of the learned counsel for the Respondent/Management cannot be disputed as incorrect. It is seen from the records that the Petitioner/Workman, who was absent for duty was recalled to the mine, on 18-11-1992 and he worked there upto 22-11-1992. From the records, it is seen that for the period from 6-10-92 to 25-12-92 for the absence of the Petitioner/Workman for duty except on 18-11-92 to 22-11-92, no medical certificate has been produced by him and the leave for such period has not been sanctioned by the Respondent/Management. It is also seen from records that the Petitioner/Workman remained absent from 30-11-92 to 08-02-93, despite the leave he applied for was refused. No document has been filed by the Petitioner/Workman either before the Enquiry Officer or before this Tribunal to show that he had sent medical certificate for the leave he applied for and the same has been sanctioned by the Respondent/Management. Further for his averments in the Claim Statement that he was not well and then his Mother was not well and he took her to various hospitals and to Ziphmor Hospital, Pondicherry and got operated, the Petitioner has not sent any documents in support of the same to the Respondent/Management. Ex. M1 to M4, leave applications have not been supported by any medical certificate Ex. M6 also was not accompanied with medical certificate. All these things had

been considered by the Enquiry Officer in his report. When the Enquiry Officer questioned the delinquent employer, the Petitioner herein, he admitted before him that he was satisfied with the enquiry proceedings. Under such circumstances, it is seen that the averments in the Claim Statement that the Petitioner was denied fair and reasonable opportunity to defend his case, which is against the principle of natural justice and it vitiates the findings as well as the dismissal order is contrary to the facts available in this case.

9. It is the contention of the learned counsel for the Petitioner that the dismissal of the Petitioner from service in the circumstances of the case is shockingly disproportionate and totally excessive. The available materials in this case clearly show that the Petitioner/Workman was absented himself unauthorisedly for more than three months. The learned counsel for the Respondent/Management has argued that the propriety of the punishment under section 11A of the Act cannot be challenged before this Tribunal in view of the proved misconduct of the Petitioner/Workman for a considerable long period of unauthorised absence of three months. In the case reported as 2000(2) LLN 1018 between N.D. KAWADE AND ANOTHER and MAHENDRA ENGG. AND CHEMICAL PRODUCTS LTD. AND ANOTHER, it is held that "the misconduct of the habitual absences of the workmen when duly proved his dismissal from service is a justified one." In a case reported as 2000 (3) LLN 269 it is held that "the dismissal of the workman after enquiry for unauthorised absence from duty for 62 days after giving him a charge sheet and obtaining his explanation which was found to be unsatisfactory cannot be considered as unjustified and mala fide and by way highly of victimization and it cannot be said that it was highly disproportionate to the allegations levelled against him." Here in this case, the Petitioner being a Geologist, his services for the Respondent/Management are mines work is absolutely essential. When he happens to be a chronic absentee from duty, the Management cannot retain him in service and hence, it is justified in dismissing him from service. So, it cannot be said that it is shockingly disproportionate to the proved misconduct of unauthorised absence for duty continuously for a considerable time. Under such circumstances, relief of reinstatement is not called for. From the facts available in this case, it is seen that the Respondent/Management has sufficiently compensated him by offering him a payment by way of cheque for Rs. 11,840/- as full settlement of his legal dues. So, under such circumstances, it can be easily concluded that the action of the Management of M/s. Alagappa Cements Pvt. Ltd. in terminating the services of Sri M. Chandrasekar w.e.f. 2-9-93 is justified and the concerned workman is not entitled for any relief.

10. In the result, an award is passed holding that the petitioner is not entitled for any claim, as prayed for and the industrial dispute raised is hereby dismissed without cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 23rd July, 2001).

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined:

On either side : None

DOCUMENTS MARKED

For I Party/Workman: Nil

For the II Party/Management

Ex.No.	Date	Description
M1	06-10-92	Xerox copy of representation from the Petitioner to the Management.
M2	26-10-92	Xerox copy of representation from the Petitioner to the Management.
M3	01-11-92	Xerox copy of representation from the Petitioner to the Management.
M4	10-11-92	Xerox copy of representation from the Petitioner to the Management
M5	18-11-92	Xerox copy of representation from the Petitioner to the Management.
M6	Nil	Xerox copy of representation from the Petitioner to the Management
M7	14-12-92	Xerox copy of representation from the Petitioner to the Management
M8	19-12-92	Xerox copy of letter from Management to the Petitioner
M9	Nil	Xerox copy of postal cover with remark 'not found'.
M10	28-12-92	Xerox copy of telegram from the Petitioner to the Management.
M11	08-01-93	Xerox copy of letter from Management to the Petitioner.
M12	18-01-93	Xerox copy of letter from the Petitioner to the Management.
M13	01-02-93	Xerox copy of charge sheet.
M14	13-02-93	Xerox copy of letter from Management to the Petitioner.
M15	02-04-93	Xerox copy of letter from Mines Manager to Sri Palaniyandi, Dy. Commissioner of labour (Retd.)
M16	02-04-93	Xerox copy of letter from Mines Manager to the Petitioner.

M17	10-04-93	Xerox copy of notice of enquiry from Sri T. Palaniyandi to the Petitioner.
M18	23-05-93	Xerox copy of letter from the Petitioner to Sri T. Palaniyandi.
M19	24-05-93	Xerox copy of letter Sri T. Palaniyandi to the Petitioner.
M20	Nil	Xerox copy of telegram from the Petitioner to the Enquiry Officer.
M21	05-06-93	Xerox copy of letter from Enquiry Officer to the Petitioner.
M22	09-06-93	Xerox copy of letter from the Petitioner to the Enquiry Officer.
M23	09-06-93	Xerox copy of letter from Enquiry Officer to the Petitioner.
M24	21-04-93	Xerox copy of enquiry proceedings.
M25	21-06-93	Xerox copy of written submissions of the Petitioner to the Enquiry Officer.
M26	29-06-93	Xerox copy of the findings of Enquiry Officer.
M27	09-08-93	Xerox copy of show cause notice.
M28	14-08-93	Xerox copy of explanation of the Petitioner to the show cause notice to the Management.
M29	02-09-93	Xerox copy of termination order with postal acknowledgement.
M30	06-09-93	Xerox copy of letter from the Respondent to the Petitioner.
M31	Nil	Xerox copy of postal cover and acknowledgement with the remarks 'not found'.
M32	05-11-93	Xerox copy of letter from the Respondent to the Petitioner with postal acknowledgement.
M33	10-09-93	Xerox copy of letter from Petitioner to the Management.
M34	05-11-93	Xerox copy of letter from the Management to the Petitioner.
M35	18-11-93	Xerox copy of letter from Petitioner to the Management.
M36	01-12-93	Xerox copy of notice of Labour Enforcement Officer, Trichy to the Management.
M37	30-12-93	Xerox copy of letter from the Management to the Labour Enforcement Officer, Trichy.
M38	30-01-93	Xerox copy of counter statement of Respondent/Management to the Labour Enforcement Officer, Trichy.

नई विल्सन, 16 अगस्त, 2001

का.पा. 2327.—शौधोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के प्रत्युत्तर में, केन्द्रीय सरकार मास्टर मैरीन के प्रबंधतांत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट शौधोगिक विवाद में केन्द्रीय सरकार शौधोगिक अधिकरण मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-8-01 को प्राप्त हुआ था।

[सं. एल-31012/4/2000-प्राइवेट (एम)]

बी. एम. डेविड, प्रबंध सचिव

New Delhi, the 16th August, 2001

S.O. 2327.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the Master Marine Services and their workmen which was received by the Central Government on 14-08-01.

[No. L-31012/4/2000/IR (M)]
B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1, MUMBAI
PRESENT :

S. N. SAUNDANKAR

Presiding Officer

REFERENCE NO. CGIT 1/36 of 2000
EMPLOYERS IN RELATION TO THE MANAGEMENT OF :

MASTER MARINE SERVICES
The General Manager,
22/D, S. A(Bralvi Road,
Fort, Mumbai 400 001.

AND

THEIR WORKMEN
The General Secretary,
Nhava Seva Bunder Kamgar Sangathan,
64, Shopping Centre, 1st Floor,
JNPT Township, Uran,
NAVI MUMBAI 400 707.

APPEARANCES :

FOR THE EMPLOYER Shri G. R. Naik
Advocate

FOR THE WORKMEN No Appearance,
Mumbai, dated 27th June, 2001

AWARD

The Government of India, Ministry of Labour, by its Order No. L-31012/4/2000/IR (M), dtd. 31-05-2000 and letter dtd. 28-8-2000, have referred the following dispute for adjudication to this Tribunal in exercise of powers conferred on it, by Clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947.

“Whether the action of the management of Master Marine Services Pvt. Ltd. in laying off 58 workmen from 5-4-1999 to 16-4-1999 is legal and justified ? If not, to what relief the workmen concerned are entitled ?”

2. Pursuant of the notices sent to the parties, management M/s. Master Marine Services appeared through their advocate Shri G. R. Naik (vide Exhibit 5). It is seen from the Rojnama notice was sent to the union by this office dtd. 5-9-2000, however, no report was received though waited for long time. The management vide application (Exhibit 9) contended that reference be disposed off as union is not interested. A fresh notice was sent to the union on 22-5-2001. However, though served (vide Exhibit 8), none appeared on behalf of the union. From this it is apparent that union is not interested in prosecuting the reference. Therefore following order is passed :

ORDER

Reference stands disposed of for non-prosecution,
S. N. SAUNDANKAR, In-Charge Presiding Officer

नई दिल्ली, 17 अगस्त, 2001

का.ग्रा. 2328—श्रीयोगिक विवाद अधियिम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एवं इंडिया के प्रबंधतत्र के सबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट श्रीयोगिक विवाद में केन्द्रीय सरकार श्रीयोगिक अधिकारण नई दिल्ली के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-08-01 को प्राप्त हुआ था।

[सं एल-11012/5/92-भाई आर (एम)]
बी. एम. डेविड, अवर सचिव

New Delhi, the 16th August, 2001

S.O. 2328.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, N. Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management Air India and their workmen, which was received by the Central Government on 14-08-01.

[No. L-11012/5/92-IR (M)]
B. M DAVID, Under Secy.

ANNEXURE

BEFORE PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, NEW DELHI

Present : Rudresh Kumar
I. D. No. 103/92

Reference No. L-11012/5/92-IR (Misc) dated 28-10-92

G. M. Bhatnagar,
303-C, Pocket-2, Mayur Vihar,
Phase-I, Delhi.

versus

Regional Manager,
Ground Service Department,
Terminal II, Air India Complex,
I.G.I. Airport,
New Delhi.

AWARD

By aforementioned reference, the Central Government in the Ministry of Labour, in exercise of power conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 made over above this industrial dispute between the parties for adjudication, which reads as follows :

“Whether the action of the Management of Air India in removing from service Shri G. M. Bhatnagar, Apron Supervisor w.e.f. 10-5-90 is justified ? If not to what relief workman is entitled ?”

2. In short the case of the workman is that he was appointed as Apron Supervisor in the Air India w.e.f. 21-10-81 in the ground services department and was confirmed on the said post on 1-5-1982; that in between the period 8-8-89 he had to face some extremely unfortunate domestic events, as his mother became seriously ill, besides his wife was unhealthy and daughter was also bedridden. There was no other male member to attend them; that during the said period on 9-1-89 his mother died and being the only male member in the family, he was required to discharge family obligations and bear other family responsibilities; that the aforesaid events prevented him to be on duty; that on joining his duty he was served with a show cause notice for being habitual absentee from duty; that the workman replied the notice and explained the circumstances forcing him to remain out of duty; that a disciplinary proceeding was initiated against him by the management by appointing an enquiry officer; that he appeared before the enquiry officer and participated in the domestic enquiry, stating reason of his absent due to domestic compulsions; that during the enquiry, he was

pursuaded by the enquiry officer as well the disciplinary authority not to contest the charge to allow them to take lenient view; that guided by the consideration of taking lenient view the pleaded guilty of the charge, and that the enquiry officer as well the disciplinary authority did not provide opportunity to prove his bonafide or took into consideration the stated reasons of his absence.

3. The Management on the other hand, has not disputed facts relating to status of the workman. It has been stated that there was no assurance to take lenient view. However, taking past lapses and punishments into consideration, the disciplinary authority found him habitual absentee from duty and passed removal order which has been impugned in this industrial dispute.

4. From the materials on record, produced by the Management, it is evident that a domestic enquiry was held and the workman with his defence counsel participated in the said enquiry. Also, it is on record that the workman had admitted his absence which was taken by the enquiry officer being without satisfactory justifications. However, the management drew conclusion of habitual absence without examining facts of illness of the mother and the ultimate death during the said period. It appears that there was no verificatory investigation before issuance of the charge-sheet. It was for the management to have asked for the evidence from the workman to explain justification of such a long absence but it appears that the management relied solely upon his admission and held him guilty of the charge.

5. Admission of absence is not denied by the workman. His Confession should have assessed in light of his valid reasons and not in isolation to hold him guilty. Though the workman has denied to have admitted the charge on pursuance or assurance of lesser penalty but there is no evidence other than the belated statement of the workman.

6. He was assisted by defence representative and there is no evidence to give inference that the management had approached him seeking his admission. There were no circumstances justifying inference that the management had any motive to victimise him. Hence, the factum of voluntary admission can be disputed to be after thought plus that the workman admitted charges under some assurances. In this backdrop, the fairness of the enquiry can not be questioned. The workman was fully aware about the consequence of his admission, and was assisted by his representative and these circumstances further provide strength to hold that the enquiry was proper and fair.

7. However, the penalty of removal, is, apparently, shockingly disproportionate. The workman had taken the plea that his mother was seriously ailing and she ultimately died during the said period of absence. Obviously, he being lone male member in the family was under obligation to discharge his duties to departed soul. These facts remained unrebuted in the written statement or prior to it during the enquiry. There was no verificatory investigation to infer otherwise. These factors, in totality must have weighed by the disciplinary authority while passing penalty order. The perusal of the penalty order indicates that the Disciplinary Authority was more guided by previous penalties. There is no material on record that the workman was ever informed in any manner, that the previous penalties would be taken into consideration so to provide opportunity to explain the circumstances. Every penalty in the past was distinct. If earlier penalty of absence was justified, this does not mean, the present absence explained by the workman and justified by the circumstances was also unsatisfactory. Accordingly, the penalty of removal is not justified and needs interference.

8. Also, sub-clause (VI) of Rule 42 of the Disciplinary Rules applicable to the workman does not mention 'habitual'. This remark is not justified.

9. Accordingly, the order of removal is held shockingly disproportionate and is set aside. In the facts and circumstances of the case, the punishment is substituted by stoppage of two increments with perpetual effect and denial of 50% of the past wages.

10. Thus, the award is as follows :

- (i) that the workman is reinstated with 50% back wages; and
- (ii) that he is penalised with stoppage of two increments with perpetual effect.

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 16 अगस्त, 2001

का.आ. 2329.—श्रीद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत पेट्रोलियम कार्पोरेशन लि., के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट श्रीद्योगिक विवाद में श्रम न्यायालय विशाखापटनम के पंचायत को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-08-01 को प्रोत्त पुष्टा था ।

[स. एच-11021/4/2001-श्राव आर (एम)
बी. एम.-डेविड, श्रवर सचिव

New Delhi, the 16th August, 2001

S.O. 2329.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central

Government hereby publishes the award of the Industrial Tribunal, Vishakhapatnam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BPCL and their workman, which was received by the Central Government on 14-08-01.

[No. H-11021/4/2001-IR (M)]
B. M. DAVID, Under Secy.

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT AT WARANGAL

Present :

Sri V. Appalanarasimham, B.Sc., B.L., Judge.
Monday, the 7th day of February, 2000
INDUSTRIAL DISPUTE C.10 of 1997

Between :

M. Krishna, S/o. Veeraiah,
H. No. 16-9-280, Puppalagutta,
Warangal. Petitioner

AND

1. Senior Operation Officer,
M/s. Bharat Petroleum Corporation Ltd.,
M/s. Hindustan Petroleum Limited,
Warangal—506 002.
2. Chief Personal Officer,
Bharat Petroleum Corporation Ltd.,
Post Box No. 1212/1213, 11 Main Road,
Anna Nagar, Madras—600 040.
3. General Manager,
Bharat Petroleum Corporation Limited,
Bombay. —Respondent

This Industrial dispute coming on before me for final hearing on 24-1-2000, upon perusing the claim petition, counter and all other documents on record and upon hearing the arguments of Smt. Satwath Rana, advocate for the petitioner and Sri C. A. R. Sheshagir Rao, advocate for the respondents, the matter having stood over for consideration till this day the court passed the following :

AWARD

The petitioner filed this petition under section 2-A(2) of I.D. Act to set aside the oral termination of the services of the petitioner as Heavy Vehicle Driver in the Office of the 1st respondent and for reinstatement of the petitioner with all benefits.

2. The brief averments in the petition filed by the petitioner are as follows : Petitioner was appointed as Heavy Vehicle Driver in Petroleum Corporation of the respondent in August, 1985. He was posted under the control of the 1st respondent. In the meanwhile there was proposal to call for candidates

through Employment Exchange to fill up the vacancies. The petitioner filed Writ Petition in the Hon'ble High Court of Andhra Pradesh and the Hon'ble High Court of A.P. directed the respondents 1 and 2 to continue the petitioner in service, if he is in service as on the date of the order i.e. 11-11-88. In anticipation of the said orders from the Hon'ble High Court of A.P., petitioner was prevented from performing his duties from March, 1989. The petitioner worked for more than 240 days continuously from 1985. Termination of the services of the petitioner is in violation of Section 25 F of I.D. Act. In W.A. No. 1304/91 filed by this petitioner, the petitioner was directed to approach the appropriate court for necessary relief. Therefore this petition is filed to set aside the oral termination orders and for reinstatement of the petitioner into service. The contribution of the Provident Fund in the Office of E.S.I. Corporation, Warangal would show the continuity service of the petitioner for more than 240 days and so the termination order is illegal. Hence the Petition.

3. The brief averments in the counter filed by the respondents are as follows : The description of the first respondent is not properly given. Hindustan Petroleum Limited is a separate legal entity and Bharat Petroleum Corporation will not have any administrative authority over the Hindustan Petroleum Corporation Limited at Warangal. The petitioner was engaged in the respondent corporation purely on casual basis, as per the work load or on account of shortfall in man-power. The services of the Petitioner are purely casual in nature. Petitioner never worked continuously for more than 240 days in any period. Contribution of Provident Fund will not give any right to seek reinstatement. There are no merits in the Petition. The Petition is liable to be dismissed.

Documents filed by the both parties are received by this court for perusal and appreciation. Arguments of advocates of both parties are heard.

5. The point for consideration is whether petitioner worked as Heavy Vehicle Driver in Petroleum Corporation continuously for 240 days prior to oral termination in 1989 ? If so, whether the petition is entitled for reinstatement ?

6. POINT :—Petitioner claims to have worked continuously from August, 1985 to March, 1989 as Heavy Vehicle Driver in the Corporation of the respondents at Warangal. The respondent filed extracts in Form No. 6 from E. S. I. Corporation showing the contribution of Provident Fund from the workers worked in Bharat Petroleum Corporation Limited, in the period from 1-4-86 to 30-9-1988. The petitioner also

relied upon the said extracts showing the contribution of the Provident Fund collected from the wages of the petitioner when the petitioner worked as driver. In the sheets of E.S.I. Corporation in forum No. 6. Number of days worked by each worked are noted in column No. 4 in the above said periods. As can be seen from the Forms of E.S.I. corporation, petitioner worked for 8 days from 1-4-86 to 30-9-86, 29 days from 1-10-86 to 31-3-87, for 15 days from 1-4-87 to 30-9-87, for 42 days from 1-10-87 to 31-3-88 and for 34 days from 1-4-88 to 30-9-1988. So for the entire period from 1-4-86 to 30-9-1988, the petitioner worked for 128 days only. There is no material filed by the petitioner to say that he worked till March, 1989. From the evidence on record, it can be believed that the services of the petitioner are discontinued w.e.f. 1-10-1988 on oral orders. In the twelve months preceding dt. 1-10-88, the petitioner also never completed continuous working of 240 days in the corporation. Petitioner also never completed working for 240 days continuously in the entire period from 1-10-86 to 30-9-1988, as per the sheets maintained by the E.S.I. Corporation for the workers for contribution of Provident Fund. On behalf of the E.S.I. Corporation, a letter was addressed at 29-4-97 to the 1st respondent for furnishing declaration Form in respect of the petitioner, as the petitioner is found to have worked in the corporation from July, 1986 to March, 1989. The said letter would not prove the actual number of days worked by the petitioner in Bharat Petroleum or Hindustan Petroleum. The evidence before this court is only on the effect that he worked for less than 240 days in the entire period of service and also in the twelve months period prior to his oral termination, either on 1-10-88 or in the month of March, 1989. As can be seen from the number of days worked in different periods, in the columns mentioned by the E.S.I. Corporation, the petitioner worked only as casual worker on daily wages as and when the services are requisitioned. He never worked continuously without any break in the entire period in twelve months preceding the oral termination. Therefore there is no violation of Section 25-F of I.D. Act. The corporation has not violated the provisions of the I.D. Act in terminating the services of the petitioner as he never completed working of 240 days continuously, as required under Section 25 F & G of I.D. Act. Therefore the petitioner is not entitled for any reinstatement as Heavy Vehicle Driver in the corporation of the respondents. The advocate for the respondents have taken objection as to the description of the 1st respondent. The name of the petitioner is

found in the Forms maintained by the E.S.I. Corporation, in which the employer was described as Bharat Petroleum Corporation Limited only. In the letter addressed to the Corporation on behalf of the E.S.I. Corporation, Warangal, it is mentioned that petitioner worked for certain period in M/s. Bharat Petroleum Corporation Ltd., Warangal and certain other periods in M/s Hindustan Petroleum Corporation Ltd Warangal. For this reason the objection taken on behalf of the respondents as to the incorrect description of the employer is not sustainable and is therefore rejected. The averments in the counter are sufficient to believe that petitioner worked in the corporation for certain period on casual basis. The objection taken on behalf of the respondent on technical ground negatived, as not maintainable. Point is answered accordingly.

7. In the result, an award is passed by holding that termination of the petitioner by the corporation of the respondents is not in violation of Section 25-F of I.D. Act and so the petitioner is not entitled for any reinstatement into service in the corporation of the respondents. This petition is dismissed accordingly. This award shall come into force within 30 days or from the date of its publication, whichever is earlier by virtue of the powers confirm to this court under section 17-A of I.D. Act.

Dictated to stenographer and transcribed by him, corrected and pronounced by me and given under my hand and seal of this court on 7th day of February, 2000.

V. APPALANARASIMHAM, Judge

APPENDIX OF EVIDENCE :

WITNESSES EXAMINED :

No documentary and oral evidence is adduced on either side.

नई दिल्ली, 17 अगस्त, 2001

का. प्रा. 2330.—प्रौद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के प्रनुसार में केन्द्रीय सरकार एम्प्लाइज स्टेट इंश्योरेंस कार्पोरेशन के प्रबंधतात्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निश्चित प्रौद्योगिक विवाद में केन्द्रीय सरकार प्रौद्योगिक अधिकारण/कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-08-2001 को प्राप्त हुआ था।

[सं. एल-15012/1/98-प्राई प्रार (एम)]

त्री. एम. डेविड, अवर सचिव

New Delhi, the 17th August, 2001

S. O. 2330.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947) the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management ESIC and their workman, which was received by the Central Government on 16-08-2001.

[No. L-15012/1/98-IR (M)]
B. M. DAVID, Under Secy.

ANNEXURE

BEFORE SHRI R.P. PANDEY PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT
SARVODAYA NAGAR KANPUR,
INDUSTRIAL DISPUTE NO. 138 OF 1990
IN THE MATTER OF DISPUTE BETWEEN

Sri Suresh Kumar Shiromani
S/o Shri Banshi Dhar
117/92 P Block Kakadeo
Kanpur.

and

Employees State Insurance corporation
The Regional Director
Employees State Insurance Corporation
ESIC Building Kanpur.

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its notification No. L-15012/1/98-IR (M) dated 23-7-98 has referred the following dispute for adjudication to this tribunal.

Whether the action of the Regional Director, Employees State Insurance Corporation, Kanpur, in terminating the services of Shri Suresh Kumar Shiromani w.c.f. 21-1-71 and not paying back wages is legal and justified ? If not, to what relief the workman is entitled ?

2. The workman filed statement of claim with the allegation that he was appointed as a peon in the scale of pay 70-1-EB-1-85 vide order no. K/Estt/I (1) dated 18-19/9/65 and joined the aforesaid post on 29-9-65. The aforesaid post was of regular and permanent in nature and he was approved for regular appointment w.e.f. 29-9-65 as a peon vide office order No. K/ESTT/I (7)/70 dated 5-12-70 and he had been working continuously as a regular peon till 20-1-71 without any stigma. His services have been terminated unlawfully vide order dated 16-1-71 w.e.f. 21-1-71.

As the petitioner workman was approved for regular appointment as a peon w.e.f. 29-9-65 and he was placed on probation for a period of two years, his probation period expired on 29-9-67, hence after expiry of the probation period he became permanent employee and to his services could not be terminated treating him as a temporary employee. It has been alleged that juniors to the petitioner have been retained in service and have been promoted from time to time but the services of the petitioner workman have been terminated arbitrary without any valid reasons. It has been alleged that a charge sheet dated 6-10-69 was served on him but later on the same was dropped and the services of the concerned workman have been terminated by way of punishment without giving him opportunity of hearing, hence the termination order is illegal. It has further been alleged that on the basis of advise given by the advocate he filed a suit in the court of Munsif City Kanpur, and the same was decreed against the management. The management filed first appeal against the judgement and decree and that appeal was dismissed. Thereafter, the management filed second appeal before Hon'ble High Court but ultimately that appeal was allowed by the Hon'ble High Court and the judgement passed by Munsif and appellate court were set aside on the ground that petitioner should seek remedy under Industrial Disputes Act. Thereafter the petitioner workman approached the officers of the Labour Department and consequently the matter has been referred by way of reference to this tribunal for decision according to law by the Appropriate Government under Sec. 10 of the Act.

3. The management has filed written statement with the contention that the concerned workman was a temporary employee and his services could be terminated by the competent authority in exercise of powers given under regulation 6(3) Employees State Insurance Corporation (Staff and Conditions of Service) Regulations, 1959 (hereinafter referred to as Regulations for the sake of brevity). It has been admitted that a charge sheet was served on him but proceedings of inquiry were dropped by the competent authority and thereafter the impugned order of termination from service was passed. It has been alleged that the appointing authority was competent to terminate the services of the petitioner under rules, as his probation period was to expire on 5-12-72 hence the services of the concerned workman could be terminated before the expiry of the period of probation treating him to be a tem-

porary employee. It has been alleged that the claim filed by the workman is misconceived and is liable to be rejected. It has been admitted that the suit filed by the concerned workman in the Court of Munsif Kanpur was decreed and appeal filed by the management was dismissed but the second appeal filed before the Hon'ble High Court was allowed and the aforesaid judgements passed by civil Court at Kanpur were set aside with a liberty to the concerned workman to seek remedy under the provisions of Industrial Disputes Act.

4. The concerned workman filed rejoinder in which the facts alleged in the statement of claim have been reiterated.

5. The workman examined himself as w.w. 1 and filed 11 documents ext. M. 1 to M. 11. The management examined Sri R. K. Srivastava Superintendent Vigilance Department ESI, Kanpur, as M.W. 1 and filed 3 documents which are copies of the relevant regulation of E.S.I.

6. I have heard the authorized representative for the parties and have gone through the record of the case.

7. The authorized Representative for the workman has argued that the services of the concerned workman have been terminated by the appointing authority without any rhyme or any reason whereas his juniore have been retained in service, hence the impugned order of termination of services passed against the concerned workman is illegal and is violative of the right of equality guaranteed to the concerned workman under Article 14 & 16 of Constitution of India. After going through the record of the case, I find force in this contention. The concerned workman has stated on oath that when his services were terminated many of his juniors such as Musafir Ram, Tank Bahadur Rana who were juniors to him and who are mentioned in Ext. W.2 were retained in services whereas services of the concerned workman were terminated arbitrarily. Sri R. K. Srivastava, M.W. 1 admitted in his cross examination that juniors to the petitioner workman are already continuing in service whereas the services of the petitioner were terminated in exercise of powers given to the competent authority under Regulation 6(3) of the Regulations. He admitted in his cross examination that the reasons for terminating the services of the concerned workman have not been given in the written statement filed by the management and he was also unable to say as to why and on what ground the services of the concerned workman were terminated. It is a settled principle of law as

enshrined under Article 14 of the Constitution of India that every state action should be informed with good and valid reasons. In other words there should not be any arbitrariness in the state action otherwise the arbitrary action of the state shall be hit by Article 14 of the Constitution of India and shall become illegal. In this case there is no evidence on record to show that the concerned workman could be kept in a separate class in comparison to his juniors and the appointing authority has not discriminated against the concerned workman while terminating his services and retaining his juniors. If the concerned workman and his juniors were appointed regularly by the same order as contained in Ext. W-2, the services of the concerned workman could not be terminated while his juniors were retained without lawful and valid reasons. No reason has been shown by the management for terminating the services of the concerned workman. There is no evidence on record to show that he was unfit for the post which he was holding and his juniors had better service record. In these circumstances the impugned order of termination appears to be arbitrary and violative of Article 14 and 16 of the Constitution of India and is liable to be quashed on this ground alone. In a similar case of the Government Branch press and another versus D. B. Balliappa AIR 1969 SC 429, the Hon'ble Supreme Court of India has held as under :

"Conversely, if the services of a temporary government servant are terminated arbitrarily and not on the ground of his unsuitability, unsatisfactory conduct or the like which would put him in a class apart from his juniors in the same service, a question of unfair discrimination may arise notwithstanding the fact that in terminating his services the appointing authority was purporting to act in accordance with the terms of the employment. Where a charge of unfair discrimination is levelled with specificity or improper motives are imputed to the authority making the impugned order of termination of service, it is the duty of the authority to dispel that charge by disclosing to the court the reason or motive which impelled it to take the impugned action."

In the case cited above juniors were retained whereas the services of the respondent of that case were terminated. That termination order of the respondent of that case was quashed on the ground that it was hit by Article 14 and 16 of Constitution of India. The management could not show that employee whose services were terminated could be placed in separate class than those of his juniors whose services had not been

terminated. The law laid down in the case cited above fully applies to the facts of the present case. I, therefore, hold that the impugned order of termination of service of the concerned workman being arbitrary is hit by the provisions of Article 14 & 16 of the Constitution of India and is liable to be quashed on this ground alone.

8. It has been contended by the representative for the workman that when the concerned workman was placed on probation of two years as required under Regulations and he completed probation of two years on 29-9-67 he will deemed to have been confirmed on the post of peon and his services could not be terminated treating him to be a temporary employee. After going through the record of the case I find force in this contention. The workman has filed the letter/order dated 5-12-70 passed by the appointing authority which Ext. W. 2 on the record. This document shows that Sri S. K. Shiromani, peon was given regular appointment w.e.f. 29-9-65 and he was placed on probation for two years from the date of his regular appointment. Date of his regular appointment is mentioned in this order as 29-9-65. It is admitted case of the parties that he was appointed on 29-9-65 on temporary and ad-hoc basis and he continued in service till aforesaid order dated 5-12-70, was passed. Under Regulation 5 of the Regulations every employee who was appointed on regular basis was to be placed on probation for a period of two years. Rule 5 (3) of the Regulations provides that appointing authority may at its discretion count any period during which an employee has successfully officiated in a post as a period of probation in that post. The record shows that the concerned workman officiated on the post of peon from 29-9-65 and that is why he has been given regular appointment from that date and his officiating services has been treated as period of probation in that post. As the concerned workman completed period of probation of two years on 29-9-67, he could be deemed to have been confirmed on that post on this date specially when his probation period was not extended by the competent authority. According to Regulation 5 of the Regulations an employee cannot be kept on probation for total period exceeding 4 years on a post. Even if the probation period of the concerned workman could be extended it could not have been extended for period extending 4 years. Thus the maximum period of probation is assumed to have been extended expired on 29-9-69. Thereafter, the concerned workman must be deemed to have been confirmed on the post of peon as he had successfully completed the period of probation from the date of regular

appointment. In a similar case of Om Prakash Maurya versus UP Cooperative Sugar Factories Federation Lucknow, 1986 (2) SLR 651 S.C., the Hon'ble Supreme Court has held that if the maximum period of probation provided under the regulation expires without there being any extension of the probation period, after expiry of such probation period the employee shall be deemed to have been confirmed.

9. The law laid down in the case cited above fully applies to the facts of the present case. As the concerned employee stood confirmed automatically in view of the law laid in the case cited above, the appointing authority could not terminate his services treating him to be a temporary employee. From this point of view also the impugned order of termination of service of the workman passed by the appointing authority appears to be illegal and without jurisdiction. If he wanted to remove him from service he should have given him an opportunity of hearing on the charges which could have been levelled against him and thereafter only he could have removed him from service. In this case this has not been done. I, therefore, hold that the impugned order of termination passed against the concerned employee is illegal being passed in violation of the principles of natural justice.

10. In view of above considerations, I hold that the impugned order of termination of services passed against the concerned workman is illegal, inoperative and is liable to be quashed.

11. The impugned order of termination of the service of the concerned workman is hereby quashed. The management is directed to reinstate him in service with full back wages. The amount of salary or arrears of salary if any received by the concerned workman from the management under orders of the Hon'ble High Court or any other court in previous litigation shall be adjusted towards the back wages payable to him. The management is directed to make compliance of this award within a period of two months from the date of publication of the award in the official gazette.

12. Reference is answered accordingly.

R. P. PANDEY, Presiding Officer

नई दिल्ली, 17 अगस्त, 2001

का. आ. 2331—प्रौद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत गोल्ड माइन्स लि. के प्रबंधनव के मंत्रिय नियोजितों

और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट श्रौद्धोगिक विवाद में केन्द्रीय सरकार श्रौद्धोगिक अधिकरण बंगलौर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-8-2001 को प्राप्त हुआ था।

[सं. एल-43012/6/97-आई आर (प.म.)]

बी. एम. डेविड, अवार सचिव

New Delhi, the 17th August, 2001

S.O. 2331.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bharat Gold Mines Ltd. and their workman, which was received by the Central Government on 14-08-2001.

[No. L-43012/6/97-IR(M)]

B.M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT "SHRAM SADAN"

III Main, III Cross, II Phase, Tumkur Road,
Yeshwanthpur, Bangalore.

Dated : 19th July, 2001

PRESENT :

Hon'ble Shri V.N. Kulkarni, B.Com.LLB.
Presiding Officer,
CGIT-Cum-Labour Court,
Bangalore

C.R. NO. 244/97

I PARTY
Shri S. Savaridass,
Secretary,
Bharat Gold Miners
Employees Union,
CITU, Marikuppam,
K. G. F.—563119
(Advocate—Shri
Sathyaranayana)

II PARTY
The Managing Director,
Bharat Gold Mines Ltd.,
Oorgaum,
K.G.F.-563120
(Advocate—Shri A.S.
Bopanna)

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-43012/6/97-IR (Misc) dated 30-6-97 for adjudication on the following schedule:

SCHEDULE

"Whether the action of the Management of Bharat Gold Mines Limited in not regularising the

services of Smt. B. Menagie is justified, if not to what relief she is entitled to?"

2. First Party is working with the Second Party management. She had a grievance that she is not regularised and therefore, this dispute is raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The case of the First party in brief is as follows:

5. The case of the first party is that she was appointed as Casual Worker in BGML during year 1986 on compassionate grounds since her husband late Chandrakasan, Ex. PE No. 048432 died on 19-7-1985 while he was on duty as cage guard. She has passed SSLC, Teachers' Training Higher Grade and Typing and she being qualified the management has extracted work of the nature of Clerk/ Typist on a meagre amount of Rs. 700/- per month. She was repeatedly requested to confirm and to regularise her but nothing was done by the management. She also expressed her willingness to work as a teacher in one of the schools managed by the Second Party. She is put to great hardship and she has to maintain her family.

6. It is the further case that the dependents of those who died in similar circumstances many years after the death of the concerned worker's husband has given permanent nature of job as stated in para 6 of the Claim Statement.

7. The first party has satisfied the provisions of section 25B of the ID Act, 1947 and she continues to do perennial nature of job. Therefore the first party has prayed to pass award in her favour.

8. The case of the Second Party is that the reference is not maintainable in law and facts. All the allegations made by the first party workmen are not correct. Prior to 1981 recruitments on compassionate grounds inspite of sons of employees who died in harness were made and subsequently there was surplus labours and hence there was ban on recruitment for unskilled categories even on compassionate grounds.

9. It is the further case of the management that the then recognised union namely INTUC took up the case of Smt. Managi for appointing her as her husband died in the year 1985 and she was taken as Casual Worker.

10. The nature of job does not warrant 8 hours work and therefore on humanitarian grounds she was considered for a part time casual job and she is doing the said job for a period of 3 hours per day in respect of other employees. The job she was taken for is on part time basis although there was surplus employees in the company which is only with view to extend

some financial help for her. Even as on date there is no need to engage her and her service was not at all required but she was retained on compassionate grounds and therefore she is not entitled for any regularisation. There is no necessity of engaging casual worker on part time basis. The management has not adopted the unfair labour practice and the allegations are not correct. The management has introduced Voluntary Retirement Scheme because there was surplus staff. The management for these reasons has prayed to reject the reference.

11. MW1 is examined on behalf of the management. His evidence is that prior to 1981 the company used to provide employment on compassionate ground only to the sons of a deceased working under ground and in the year 1982 this procedure was banned due to excessive manpower and other contingencies. He also said that the first party was taken on account of representation by the INTUC Union. She was provided given job of helper to open office and cleaning the office and some other sundry works were also entrusted to her. It was given on compassionate grounds and she has not done a job of Typist or Clerk. He also states that the unit declared as sick.

12. Against this first party got examined as WW1. Her evidence is that her husband was working with the management and on 19-7-1985 when her husband was working under the mine inside he died due fatal accident. She is having 4 school going children and she has no other income. She was given job as Casual Labour in 1986 and even now she is working. She is not regularised.

13. In the instant case there is no documentary evidence at all. We have to consider the evidence of MW1 and the first party workman. It is an admitted fact that the husband of the first party was working with the management and died while he was working in the mine inside. She was given job on compassionate ground.

14. In view of this I am of the opinion that the management can consider her case for regularisation if any vacancy is there. The workman has stated in her cross examination that the appointment order is in the Company office and the same is not filed. She also said that on account of force she was given job on compassionate ground. Her evidence is that she was doing clerical and typing work but MW1 has denied this statement. MW1 is not cross examined by the first party work man. Now the management can consider her regularisation if she is eligible and fulfills required qualification. Accordingly I proceed to pass the following order.

ORDER

The reference is allowed with a direction to the management to regularise the First party workman if she fulfils all the qualifications for any regular employment as per recruitment rules. Accordingly the case is disposed of.

(Dictated to PA transcribed by her corrected and signed by me on 19th July 2001.

V.N. KULKARNI, Presiding Officer

नई दिल्ली, 17 अगस्त 2001.

का.क्रा. 2332:—श्रौद्धोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के प्रत्यासरण में केन्द्रीय सरकार कान्हुपुर स्टोन माइन्स के प्रमधंतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट श्रौद्धोगिक विवाद में केन्द्रीय सरकार श्रौद्धोगिक अधिकारण धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-08-2001 को प्राप्त हुआ था।

[सं. एस-29011/37/94-प्राई आर (एम)]

बी एम डेविड, अवर सचिव

New Delhi, the 17th August, 2001

S.O. 2332.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management Kanhupur Stone Mines and their workman, which was received by the Central Government on 14-08-2001

[No. L-29011/37/94- IR (M)]

B.M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL DISPUTE (NO. 2) AT DHANBAD

PRESENT

Shri B. Biswas, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act., 1947.

Reference 86 of 1995

Parties Employers in relation to the management of Kanhupur Stone Mine of Shri Ali Murtaza Khan, Rajgarm and their workman.

Appareances :

Onbehalf of the workman : None.

On behalf of the employers : None.

State : Jharkhand Industry Stone Mine.

Dated, Dhanbad, the 16th July, 2001

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1) (d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No.L-29011/37/94 I.R. Misc. dated the 28-4-95/2-5-95.

“Whether the action of the management of Kanhupur Stone Mine of Shri Ali Murtara Khan, Rajgram, in terminating the services of S/Shri Parbej Sheikh S/o Lokman Sheikh and Badal Sheikh S/o, Rakir Sheikh from August, 1992 is justified ? If not, to what relief the workman are entitled ?”

2. In this reference neither of the party turned up before this Tribunal nor took any steps. There after notices under regd. post were issued to them again and again. But inspite of the issuances of notices to them they abstained from appearing before this Tribunal and taking any steps. It therefore leads me to an inference that at present no industrial dispute is existing between them. Under such circumstances, a ‘No dispute’ Award is rendered and the reference is disposed of on the basis of ‘No, dispute’ award presuming non-existance of any industrial dispute between the parties presently.

B. BISWAS, Presiding Officer,

नई दिल्ली, 17 अगस्त, 2001

का.आ. 2333.—आधिकारिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार राजस्थान स्टेट माईन्स के प्रबंधतत्व के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट आधिकारिक विवाद में श्रम न्यायालय जोधपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-08-2001 को प्राप्त हुआ था।

[सं. एल-29012/101/95-आई आर (एम)]

बी. एम. डेविड, अवर मंचिव

New Delhi, the 17th August, 2001

S.O. 2333—In pursuance of Section 17 of the Industrial Disput Act, 1947(14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jodhpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management Rajasthan State Mines and their workman, which was received by the Central Government on 14-08-2001.

[No. L-29012/101/95-IR (M)]

B.M. DAVID, Under Secy.

अनुबंध

आधिकारिक विवाद अधिकरण एवं श्रम न्यायालय

जोधपुर

पीठासीन अधिकारी :—श्री राजेन्द्र कुमार चाहाण, आर.एम.जे.एस. केन्द्रीय ओ. वि. सं. : 2/96

श्री रत्नलाल शर्मा पुत्र श्री राधेश्याम शर्मा एड.सी.वी.आई एफि स मूरत सिंह जी की कोठी, सोजलीगेट, जोधपुर। —प्रार्थी

बनाम

प्रोजेक्ट मैनेजर, राजस्थान स्टेट माईन्स, पाइ भिन्नरल लिमिटेड, चन्द्रबीर सिंह कालोनी, जैसलमेर।

—प्रार्थी

उपस्थिति :—

- (1) प्रार्थी की ओर से श्री बृजकिंगोर प्रतिनिधि
- (2) प्रार्थी की ओर से कोई हाजिर नहीं।

अधिनियम

दिनांक 5-12-2000

भारत सरकार श्रम मंत्रालय ने अपनी अधिसूचना सं. एल. 29012/101/95-आई आर. (विविध) दिनांक 7-2-96 में नियुक्त विवाद वाले अधिनियम इम नियायालय को प्रेषित किया है :—

“Whether action of the management through Project Manager, Raj. State Mines and Minerals Ltd., Limestone Division, Jaisalmer in termination the service of Shri Ratan Lal Sharma from May, 1994 is legal and justified, if not what relief to concerned workman is entitled to.”

प्रार्थी ने अपना मांगपत्र प्रस्तुत करते हुए अभिकथित किया है कि प्रार्थी की नियुक्ति दिनांक 13-4-93 को लाईम प्रोजेक्ट पर की गई, प्रार्थी की नियुक्ति चपरासी/श्रकुशम अभिक के रूप में की गई, दिनांक 7-6-94 को अवैतक प्रार्थी की तबीयत छाराव हो गई, जिसके लिए प्रार्थी को ईलाज के लिए जैसलमेर आना पड़ा। प्रार्थी की तबीयत ठीक होने के बाद दिनांक 8 जून 1994 को जब प्रार्थी कार्य पर उपस्थित हुआ तो प्रार्थी को मौखिक रूप से कार्य पर लेने से इन्कार कर दिया तथा सेवा से पृथक कर दिया, सेवापृथक करने से पूर्व धारा 25-एफ. ओ. वि. अधिनियम, 1947 के प्रावधानों की पालना नहीं की, प्रार्थी बीमारी की वजह से अनुपस्थित रहा जो हुराचरण की परिभाषा में तहीं शाता, विषमी के लिए यह आवश्यक था कि वह प्रार्थी को विमार्शीय जाच कर सेवा से पृथक करता, लेकिन अप्रार्थी ने ऐसा नहीं किया तथा प्रार्थी की नियुक्ति के बाद प्रार्थी ने अपने रिश्तेदारों को संभू एवं जैसलमेर में नियुक्ति देदी। अन्त में प्रार्थीना है कि प्रार्थी को सेवा समाप्ति को अवैध घोषित करने द्वारा प्रार्थी की सेवा समाप्ति की विधि में पुनर्सेवा में रथापित करने का अधिनियम पारित किया जावे तथा तमाम वेतन व अन्य लाभ प्रार्थी में दिनाये जावे।

प्रार्थी की ओर से जवाब प्रस्तुत करते हुए, कहा गया है कि प्रार्थी को दैनिक श्रमिक के रूप में नियुक्ति नहीं दी गई थी, प्रार्थी को समय-समय पर जब भी कार्य की आवश्यकता होई तो आकस्मिक रूप में उत्पन्न कार्य हेतु आकस्मिक श्रमिकों के रूप में कार्य पर लगाया गया था, प्रार्थी स्वयं स्वेच्छा में विषयी के सम्बन्ध में कार्य हेतु उपस्थित नहीं हुआ, प्रार्थी ने जिन कर्मचारियों की नियुक्ति के बारे में बताया है ऐसी कोई नियुक्ति विषयी ने नहीं की, प्रार्थी स्वेच्छावश ही दिनांक 8 जून 94 से कार्य पर उपस्थित नहीं हुआ चूंकि प्रार्थी को आकस्मिक श्रमिक के रूप में कार्य पर लगाया गया था अतः कार्य को समाप्ति के पश्चात् प्रार्थी का किसी प्रकार का कोई अधिकार नहीं रहता। अतः प्रार्थी किसी प्रकार का अनुत्तोष प्राप्त करने का अधिकारी नहीं है। अन्त में प्रार्थी की है कि प्रार्थी का सांग-पत्र मध्य खर्च खारिज विवाह जाये।

प्रार्थी ने अपने सांग-पत्र की तारीख में स्वयं अपना सपथ-पत्र प्रस्तुत किया जिस पर अप्रार्थी द्वारा जिरह की गई तथा अप्रार्थी की ओर से श्री के.एस. मेहता का शपथ-पत्र प्रस्तुत किया गया है जिस पर प्रार्थी प्रतिनिधी द्वारा जिरह की गई। प्रार्थी की ओर से कोई दस्तावेजी साक्ष्य प्रस्तुत नहीं की है जर्बाकि विषयी की ओर से पै-स्टिप, मेनेजरी शीट (गमलाल) जूलाई 1993 से मई 1994 की फोटो प्रतिनिधी पेश की है।

मैंने दोनों पक्षों के विडान प्रतिनिधीगण की बहस मुनी, पत्रावली का अवलोकन किया।

प्रार्थी ने अपने शपथ-पत्र की जिरह में कहा है कि मैंने कोई नियुक्ति आदेश नहीं दिया गया था, यह सही है नियुक्ति अकुशल श्रमिक के रूप में कार्यगत था, मेरे से लगातार कान फरादा गया था, यह गलत है कि मैं स्वेच्छा से लूटूटी से चला गया, यह गलत है कि मैं आठ जून को लाप पर नहीं आया था, मेरे से बाद में आये अविकल्पों को नियुक्तियाँ दी इसलिये मैं कहता हूं कि जैमलमेर में इस विभाग में शाई-मोजा बाद चल रहा है केर भिं, तेजवीर भिंडनके पिताजी उदयपुर में कार्यगत है।

अप्रार्थी की ओर से गवाह के पास मेहता ने अपने शपथ-पत्र की जिरह में कहा है कि प्रार्थी ने 13-4-93 से 7-6-94 तक लगातार काम नहीं किया, कार्य की आवश्यकता अनुसार कार्य पर रखते थे, हम प्रार्थी की हाजिरी का रेकार्ड रखते थे, हम वेतन भुगतान का भी रेकार्ड रखते थे, हमने प्रार्थी को काम से निकाला नहीं था, प्रार्थी के काम पर नहीं आते पर हमने कोई पत्र नहीं भेजा क्योंकि वह अकुशल श्रमिक के रूप में कार्यगत था।

प्रार्थी के विवाह प्रतिनिधी का तर्क है कि प्रार्थी ने जूलाई 1993 से जून 1994 तक की अवधि में कुल 239 दिन कार्य कर लिया था तथा प्रार्थी की नवीयत अचानक खराब हो जाने से वह जैमलमेर चाला गया तथा स्वस्थ होने पर दिनांक 8-6-94 को कार्य पर उपस्थित हुआ तो उसे कार्य पर नहीं लिया तथा विषयी ने अपने रिपोर्टरों को कार्य पर नियुक्त कर दिया अतः प्रार्थी की सेवा समाप्ति धारा 25-एफ औ. वि.

अधिनियम के प्रावधानों के विरुद्ध है। इसके विपरीत प्रार्थी का कहना यह है कि प्रार्थी को आनंदित कार्य उपना होने पर वतांर श्रमिक काम पर लगाया गया था तथा कार्य की उपलब्धता होने पर ही दैनिक वेतन के आवाद पर नियुक्ति प्रदान की गई थी तथा प्रार्थी स्वेच्छा से दिनांक 8 जून, 1994 को कार्य पर उपस्थित नहीं हुआ।

विषयी की ओर से पार्थी के कार्य दिवांगी, मज़हूरी की दूर व दी गई राशि का विवरण जूलाई 1993 से मई 1994 तक का पेश किया है जिसके अनुसार प्रार्थी ने जूलाई 93 में 27 दिन, अगस्त 93 में 26 दिन, सितम्बर 93 में 18 दिन, अक्टूबर 93 में 26 दिन, नवम्बर 93 में 26 दिन, दिसम्बर 93 में 16 दिन, जनवरी 94 में 18 दिन, फरवरी 94 में 24 दिन, मार्च 94 में 27 दिन, मई 94 में 25 दिन व जून 94 में 6 दिन कुल बारह माह अर्थात् एक कलेण्डर वर्ष में 239 दिन कार्य किया। यह अवश्य है कि प्रार्थी ने जिन्हें दिन कार्य किया उतने दिन का उमेर भुगतान किया गया है लेकिन उक्त कार्यदिवसों में रविवार या अन्य राजपत्रित अवकाश शामिल नहीं किये हैं उक्त कार्यदिवसों में धर्म रविवार या राजवित्त अवकाश जोड़े तो प्रार्थी के कार्यदिवस एक वर्ष में अवधि एक कलेण्डर वर्ष में लगातार 240 दिन में अधिक हो जाते हैं। विषयी के गवाह ने अपनी जिरह में इस तथ्य को स्वीकार किया है कि प्रार्थी ने 13-4-93 से 7-6-94 तक लगातार काम नहीं किया कार्य की आवश्यकता अनुसार कार्य पर रखते थे जब कि प्रार्थी का जिरह में स्पष्ट कथन है कि ‘मेरे से लगातार काम कराया गया था’। प्रार्थी द्वारा प्रस्तुत प्रार्थी के कार्यदिवसों के विवरण में यह स्पष्ट है कि प्रार्थी ने जूलाई 93 से फरवरी 94 अवधि अठीने तक लगातार कार्य किया व मार्च 94 को छोड़कर फिर अप्रैल 94 से जून 94 तक कार्य करना विषयी द्वारा बताया गया। विषयी के गवाह का कहना है कि हम प्रार्थी के हाजिरी का रिकाउंट रखते थे। लेकिन प्रार्थी की ओर से जौनवृत्तिर प्रार्थी के हाजिरी का रिकाउंट पेश नहीं किया गया है। जिसमें भी यहीं प्रकट होता है कि प्रार्थी ने पूरी अवधि में कार्य किया।

उपरोक्त साध्य विवेचन के आधार पर मैं इस निकर्प पर पहुंचा हूं कि प्रार्थी ने 13-4-93 से 7-6-94 तक की अवधि में लगातार एक कलेण्डर वर्ष में 240 दिवस कार्य कर लिया था। चूंकि प्रार्थी ने अप्रार्थी संस्थान में लगातार 240 दिन में अधिक कार्य कर लिया था अतः विषयी के लिए प्रार्थी की सेवा समाप्ति में पूर्व धारा 25-एफ औ. वि. अधिनियम के प्रावधानों की पालना में एक माह का नोटिस, नोटिस वेतन व छठनी मुआवजा आवश्यक व अनिवार्य था, लेकिन प्रस्तुत प्रकरण में प्रार्थी ने ऐसा नहीं किया है।

प्रार्थी द्वारा प्रोर्थी की सेवा समाप्ति के संबंध में यह नहीं कहा गया है कि प्रार्थी के विरुद्ध अनुशासनात्मक संबंधी कार्यबाही के संबंध में दिये गये दण्ड के परिणामस्वरूप उसकी सेवा समाप्त की गई या प्रार्थी अर्धायासीकी आयु का हो गया या प्रार्थी के लगातार बीमारी के कारण हुई है या प्रार्थी

वी सेवा समाप्त हो जाने के परिणाम स्वरूप हुई है। अतः उक्त विवेचन के शाधार पर अप्रार्थी द्वारा प्रार्थी की सेवा समाप्त धारा 2(00) औ. वि. अधिनियम के अन्तर्गत छंटनी की परिधि में आती है।

चूंकि उपरोक्त विस्तृत विवेचन में प्रार्थी का अप्रार्थी के यहां सेवा समाप्ति में पूर्व के एक वर्ष में लगातार 240 दिन से अधिक कार्य किया जाना व अप्रार्थी द्वारा प्रार्थी की सेवा समाप्ति धारा 2 (00) औ. वि. अधिनियम के अन्तर्गत छंटनी की परिधि में आना प्रमाणित माना गया है इसलिये धारा 25-एफ औ. वि. अधिनियम के प्रावधान के अनुसार अप्रार्थी का प्रार्थी की सेवा समाप्ति में पूर्व एक माह का नोटिस, नोटिस वेतन व छंटनी मुआवजा द्वारा नहीं करने के फलस्वरूप प्रार्थी की सेवा समाप्ति में धारा 25-एफ औ. वि. अधिनियम के आदेशात्मक प्रावधानों का उल्लंघन होना प्रमाणित माना जाता है अतः प्रार्थी की सेवा समाप्ति को उचित एवं वैध नहीं कहा जा सकता। अतः प्रार्थी पुनः दैनिक वेतन भोगी श्रमिक के रूप में अप्रार्थी के यहां सेवा में पदस्थापित होने का अधिकारी है।

अप्रार्थी का यह कथन कि प्रार्थी स्वेच्छा से सेवा छोड़कर चला गया, इस तथ्य को, प्रमाणित करने का भार अप्रार्थी पर था, लेकिन अप्रार्थी ने ऐसी कोई साक्ष्य सामग्री पत्रावली पर प्रस्तुत नहीं की है जिसमें यह माना जा सके कि प्रार्थी स्वेच्छा से सेवा छोड़कर चला गया था। अतः यही प्रमाणित माना जाना है कि प्रार्थी ने स्वेच्छा से सेवाएं नहीं छोड़ी बल्कि अप्रार्थी ने प्रार्थी की छंटनी की थी।

अब प्रार्थी को दियाये जाने वाले वेतन अर्थात् पूर्व भूति के संबंध में विचार किया जाना है। प्रार्थी की सेवा समाप्ति मई 1994 में की गई जब कि भारत सरकार द्वारा यह रेफरेन्स 7-2-1996 को इस न्यायालय को प्रेषित किया गया, प्रार्थी की सेवा समाप्ति को छः वर्ष की अवधि होने जा रही है। इस अवधि में प्रार्थी ने निश्चित रूप से अपने व अपने परिवार के भरण-पोषण के लिए कोई आय अवश्य अंतिम कर अपना जीविकोपायन किया है ऐसी स्थिति में यदि प्रार्थी को सेवा समाप्ति में पुनः सेवा में स्थापित किये जाने तक की पूर्ण पूर्व भूति दिलाई जाती है तो इसमें अप्रार्थी नियोजक पर काफी आर्थिक बोझ पड़ेगा। अतः मैं मामले के समस्त तथ्यों एवं परिस्थितियों को देखते हुए प्रार्थी को रेफरेन्स की तिथि 7-2-96 से सेवा में पुनर्स्थापित करने तक की अवधि का 50 प्रतिशत पूर्व भूति के रूप में अप्रार्थी से दिलाया जाना उचित, न्यायमंगत व पर्याप्त मममता है।

अधिनियम

अतः यह अधिनियम किया जाता है कि प्रोजेक्ट मैनेजर राजस्थान स्टेट माईन्स एण्ड मिनरल लिमिटेड, लाईम स्टोर डिवीजन, जैसलमेर द्वारा श्रमिक श्री रत्नलाल की सेवाएं मई 1994 से समाप्त करना अनुचित एवं अवैध है। अतः आदेशित किया जाता है कि अप्रार्थी नियोजक प्रार्थी को

तुर्ग्न सेवा में दैनिक वेतन भोगी श्रमिक के रूप में सेवा में पुनर्स्थापित करे, प्रार्थी की सेवा निर्गत भानी जायेगी। प्रार्थी रेफरेन्स की तिथि 7-2-1996 से सेवा में पुनर्स्थापित किये जाने तक की अवधि का 50 प्रतिशत वेतन पूर्व भूति के रूप में प्राप्त करने का अधिकारी घोषित किया जाता है।

इस अधिनियम को वास्ते सूचना एवं प्रकाशनार्थ केन्द्रीय न्यायालय में हस्ताक्षर कर मुनाया गया।

राजेन्द्र कुमार चाचाण, न्यायाधीश

नई दिल्ली, 17 अगस्त, 2001

का.आ. 2334 :—श्रीद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के प्रत्यासरण में, केन्द्रीय सरकार आई.ओ.एस. के प्रबंधतात्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निविष्ट श्रीद्योगिक विवाद में केन्द्रीय सरकार श्रीद्योगिक अधिकरण चंडीगढ़ के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-08-2001 को प्राप्त हुआ था।

[म. प.ल—30012/16/92-प्राइम्यार (एम)]

बी. एम. डेविड, अवर मंचिव

New Delhi, the 17th August, 2001

S.O. 2334.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of IOCL and their workman, which was received by the Central Government on 14-8-2001.

[No. L-30012/16/92-IR(M)]
B.M. DAVID, Under Secy.

ANNEXURE

BEFORE SHRI B. L. JATAV, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT CHANDIGARH.

Case No. I.D. 74/93

Joginder Pal son of Late

Shri Chuni Lal,

R/o Ward No. 2,

H.No. 293, Govindpur,

Jammu (J & K)

—Workman

Versus

The Senior Divisional Manager, Indian Oil

Corporation Ltd.,

36 A/B, Gandhi Nagar,

Jammu (J & K)

—Management

APPEARANCES

For the workman : Shri Ashok Parihar with workman and Shri Yog Raj

For the management : Shri paul S. Saini

AWARD

(Passed on 3rd July 2001)

The Central Govt. vide gazette notification No. L-30012/16/92-IR(Misc.) dated 15th of June 1993 has referred the following dispute to this Tribunal for adjudication :

“Whether the management of I.O.C. Ltd., represented by its senior divisional manager I.O.C. Ltd., 36, A/B Gandhinagar, Jammu have violated the provisions of Section 25-F of the I.D. Act 1947? If so, to what relief the workman Shri Joginder Paul is entitled to and to what effect?”

2. Today the case was fixed for arguments. Workman filed an application for withdrawal of the case stating therein that the settlement has been arrived at between the workman and the management and his claim has been satisfied by the management. This fact has been verified and the workman admitted that the settlement was arrived at by his free will and no undue influence or mis-representation or coercion or fraud was exercised by the management upon the workman. The ref. of the management also confirm the settlement. In view of the above, the present reference is returned to the Ministry as settled and withdrawn. Appropriate Govt. be informed.

Chandigarh 3-7-2001

B. L. JATAV, Presiding Officer

नई दिल्ली, 17 अगस्त, 2001

का. आ. 2335.— शौचालिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार आई.बी.पी.लि. के प्रबंधन के संवेदन नियोजनों पर उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट शौचालिक विवाद में केन्द्रीय सरकार शौचालिक अधिकरण कोलकाता के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-08-2001 को प्राप्त हुआ था।

[सं. एन-30012/45/2000-ग्राइनर (एम)]
श्री. एम. डेविड, अवर सचिव

New Delhi, the 17th August, 2001

S.O. 2335.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby published the award of the Central Government Industrial Tribunal, Kolkata as shown in the Annexure in the Industrial Dispute between the employers in relation to the management

of I.B.P. Ltd. and their workman, which was received by the Central Government on 14-08-2001

[No. L-30012/45/2000-IR(M)]
B. M. DAVID, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 33 of 2000

Parties : Employers in relation to the management the General Manager, M/s. I.B.P. Co. Ltd.

AND

Their workman.

Present :

Mr. Justice Bharat Prasad Sharma....
Presiding Officer

Appearance :

On behalf of Management None.

On behalf of Workmen None.

State : West Bengal. Industry : Petroleum.

AWARD

By Order No. L-30012/45/2000-IR(M) dated 11-08-2000 the Central Government in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of I.B.P., Calcutta in not allowing the rate of HRA i.e. 22.5% to the staff working at Patna (Being classified as B.I. city by the Govt. of India at per with those of officer category is justified? If not, to what relief the concerned workmen are entitled?”

2. When the case is called out today, none appears for either of the parties. It appears from record that on earlier many occasions the representative of the union did not appear. Since none appears for the union, nor any step is taken on its behalf for adducing evidence, it is clear that the union is no longer interested to proceed with the matter. Advocate for the management is also not present to say anything in the matter.

3. In such circumstance, in the absence of any material for any decision in respect of the schedule under reference, this Tribunal has no other alternative but to dispose of the reference by passing a “No Dispute” Award.

4. A “No Dispute” Award is accordingly passed and the reference is disposed of.

B. P. SHARMA, Presiding Officer

Dated, Kolkata

The 25th July, 2001

नई दिल्ली, 16 अगस्त 2001

का.प्रा. 2336:—आंदोलिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार शेवारोय्स बॉम्बाइट माइन्स के प्रबंधनने के सबूत नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट आंदोलिक विवाद में केन्द्रीय सरकार आंदोलिक अधिकार नेतृत्व के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-8-2001 को प्राप्त हुआ था।

[म.एन-43012/25/2000-शाई आर (एस)]
दी.एम डेविड, प्रवर शनिव

New Delhi, the 16th August, 2001

S.O. 2336.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Cent. Govt. Indus. Tribunal-cum-Labour Court, CHENNAI as shown in the Annexure, in the industrial dispute between the employers in relation to the Shevaroys Bauxite Mines and their workmen which was received by the central Government on 14-8-2001,

[No. L-43012/25/2000/IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, CHENNAI

Tuesday, the 24th July, 2001

PRESENT :

K. Karikyan, Presiding Officer.

Industrial Dispute No. 575/2001

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between Shri A. Balakrishnan and the Management of Shevaroys Bauxite Mines, Salem.)

BETWEEN

Shri A. Balakrishnan : I Party|Workman

AND

The Assistant General Manager : II Party|Management.

Shevaroys Bauxite Mines, Salem.

APPEARANCE :

For the Workman : Shri V. K. Nallamuthu,
Authorised Representative

For the Management : M/s T. S. Gopalan & Co.
Advocates.

The Govt. of India Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the

concerned Industrial Dispute for adjudication vide Order No. L-43012/25/2000-IR(M) dated 30-3-2001. The Schedule of reference reads as under:—

“Whether the action of the Management of Madras Aluminium Co. Ltd. in terminating the services of the workman Shri A. Balakrishnan w.e.f. 26-3-99 is justified? If not, to what relief is he entitled?

On receipt of the order of reference from the Ministry of Labour, Govt. of India, in respect of this industrial dispute between the parties, notices were sent to both the parties to appear before this Tribunal and to make their representation in respect of the referred dispute. The I Party|Workman appeared along with his authorised union representative, while the II|Management entered appearance through their counsel. When the matter was taken up for the I Party|Workman to file the Claim Statement, it was represented on 17-7-2001, on either side, that the matter is being settled between the parties and they will report the settlement in the next hearing. A joint memo has been filed for the settlement arrived at between the parties and on behalf of the Petitioner, it was requested to grant time for filing the petition for withdrawal of this industrial dispute by the I Party|Workman.

2. In pursuance of the request made on behalf of the I Party|Workman, when the matter is taken up to the adjourned date 24-7-2001 i.e. to-day granting time for the I Party|Petitioner to file his petition to withdraw this industrial dispute, the I Party|Workman, Mines Manager representing the II Party|Shevaroys Bauxite Mines, Salem the authorised union representative of the I Party and the counsel for the II Party|Management are present before this Tribunal. A withdrawal memo has been filed by the I Party|Workman along with the receipt given by the I Party|Workman to the Management, acknowledging the receipt of bank demand draft for a sum of Rs. 1,05,000 (Rupees One Lakh Five thousand only). The Petitioner|Workman and the Management representative, who are the signatories to the Memorandum of Settlement under section 18(1) of the Industrial Disputes Act, 1947 dated 10-7-2001 filed along with joint memo were questioned with regard to the terms of the Settlement mentioned in the Memorandum of Settlement. Both of them accepted as correct. The I Party|Workman requested this Tribunal to record this withdrawal of this industrial dispute as per the withdrawal memo, since he arrived at the settlement duly settled the dispute and had received the amount of Rs 1,05,000 mentioned in the Memorandum of Settlement by way of a bank demand draft in full and final settlement of the claim raised in the dispute mentioned in Industrial Dispute No. 575/2001, pending on the file of this CGIT-Cum-Labour Court, Chennai. Both the parties to the concerned dispute as well as Memorandum of Settlement present in the Court requested this Tribunal to pass a Settlement Award, in view of the Memorandum of Settlement and in view of the withdrawal memo filed by the I Party|Workman. Accordingly, the Memorandum of Settlement dated 10-7-2001 and the withdrawal memo filed by the I Party|Workman to withdraw this industrial dispute, in view of the settlement of industrial dispute against the Management, are recorded.

3. In the result, a Settlement Award is passed in respect of this referred industrial dispute between the parties in terms of the Settlement mentioned in the Memorandum of Settlement under section 18(1) of the Industrial Disputes Act, 1947 dated 10-7-2001 filed into Court. The said Settlement Memorandum and the copy of the receipt issued by the I Party Workman acknowledging the payment by the II Party Management by way of bank demand draft shall be appended to the Award.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 24th July, 2001).

K. KARTHIKEYAN, Presiding Officer

MEMORANDUM OF SETTLEMENT UNDER SECTION 13(1) OF THE I. D. ACT, 1947

DATED : 10-7-2001

Parties to the Settlement:

Management of M/s. Shevroy's
Bauxite Mines Yercaud and
Thiru A. Balakrishnan,
represented by Thiru V. K. Nallamuthu
General Secretary, Shevroy's General
Employees Union, Yercaud.

Representing the management :

- (1) Thiru. A. Muralidharan
Vice-President (HR)
- (2) Thiru R. Chandrasekaran
Manager Mines.

Representing workmen :

- (1) Thiru V. K. Nallamuthu
General Secretary
- (2) Thiru A. Balakrishnan
The Shevroy's General Employees
Union, Yercaud.

SHORT RECITAL OF THE CASE

Whereas an Industrial Dispute is pending before the Central Government Industrial Tribunal, Chennai (CGID No. 575/2001) regarding the non-employment of Mr. A. Balakrishnan by the company for adjudication. During the pendency of the above case, both the parties mutually held discussions on various dates for settling this case out of court. Finally today this 10th day of July, 2001 after protracted discussions both the parties arrived at an understanding and agreement to settle the dispute complete in all respect on the following terms.

Terms of Settlement:

(1) The parties agree that the workman Mr. A. Balakrishnan will be paid a lumpsum amount of Rs. 1,05,000 in full discharge of his claim for reinstatement in service with Back wages, Bonus, Leave wages, Retrenchment compensation and other fringe benefits as claimed in the dispute No. CGID No. 575/2001 pending before the Central Government Industrial Tribunal-cum-Labour Court, Chennai.

(2) The parties agree that this amount of Rs. 1,05,000 (Rupees One lakh five thousand only) be paid in full and final settlement of the claim raised in the dispute CG ID No. 575/2001 before the Central Government Industrial Tribunal-cum-Labour Court, Chennai.

(3) The management agrees to pay the said amount i.e. Rs. 1.05,000 on or before 23-7-2001 to the workman Mr. A. Balakrishnan in full and final settlement of the claim raised in the above dispute. The workman Mr. A. Balakrishnan agrees not to raise any claim or file any case/refernce in future regarding the issues raised in CG ID No. 575/2001 and any other issue relating to his employment or non-employment against the management. The workman Mr. A. Balakrishnan agrees that he accepts the amount of Rs. 1,05,000 in full discharge of all his claims against the company and that no further claim shall be lodged/made by him or on his behalf against the company, on the issue of his employment or non-employment or otherwise in the company.

(4) The workman, Mr. A. Balakrishnan agrees, to withdraw the dispute bearing the No. CGID No. 575/2001 raised before the Central Government Industrial Tribunal-cum-Labour Court on or before 30-7-2001 and further agrees that this settlement be filed before the said court.

In witness thereof both the parties hither to have agreed and subscribed their respective signatures to this settlement on this 10th day of July, 2001.

Representing the Management

Representing the Workmen

(1) Sd/-

A. Muralidharan

Sd/-

(V. K. Nallamuthu)

(2) Sd/-

(A. Balakrishnan)

Witnesses

(1) Sd/-
(M. Kandasamy)

(2) Sd/-
(N. Subha)

नई दिल्ली, 16 अगस्त, 2001

का.आ. 2327 : श्रीद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार शेव्रोएस बॉवसाइट माइन्स के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट श्रीद्योगिक विवाद में केन्द्रीय सरकार श्रीद्योगिक अधिकरण चैम्बर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-8-2001 को प्राप्त हुआ था।

[सं. एल-43012/26/2000-प्रार्थ आर (एम)]
श्री एम ईश्वर मच्चिव

New Delhi, the 16th August, 2001

S.O. 2337.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial dispute between the employers in relation to the Shevaroys Bauxite Mines and their workmen which was received by the Central Government on 14-8-2001.

[No. L-43012/26/2000/IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 24th July, 2001

PRESENT :

K. Karthikeyan, Presiding Officer.

Industrial Dispute No. 570/2001

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between Shri S. Munusamy and the Management of Shevaroys Bauxite Mines, Salem.)

BETWEEN

Shri S. Munusamy : I Party/Workman

AND

The Assistant General Manager : II Party/Management.

Shevaroys Bauxite Mines, Salem,

APPEARANCE :

For the Workman : Sri V. K. Nallamuthu,
Authorised Representative.

For the Management : M/s. T. S. Gopalan & Co.
Advocates.

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned Industrial Dispute for adjudication vide Order No. L-43012/26/2000-IR(M) dated 27-3-2001. The Schedule of reference reads as under:—

“Whether the action of the Management of Madras Aluminium Co. Ltd. in terminating the services of the workman Shri S. Munusamy w.e.f. 17-5-99 is justified? If not, to what relief is he entitled?

On receipt of the order of reference from the Ministry of Labour, Govt. of India, in respect of this industrial dispute between the parties, notices were sent to both the parties to appear before this Tribunal and to make their representation in respect of the referred dispute. The I Party/Workman appeared along with his authorised union representative, while the II Party/Management entered appearance through their counsel. After the Claim Statement of the I Party/ workman has been filed, who the matter was taken up for the II Party/Management to file their Counter Statement, it was represented on 17-7-2001, on either side, that the matter is being settled between the parties and they will report the settlement in the next hearing. A joint memo has been filed for the settlement arrived at between the parties and on behalf of the Petitioner, was requested to grant time for filing the petition for withdrawal of this industrial dispute by the I Party/Workman.

2. In pursuance of the request made on behalf of the I Party/Workman, when the matter is taken up to the adjourned date 24-7-2001 i.e. to-day, granting time for the I Party/Petitioner to file his petition to withdraw this industrial dispute, the I Party/Workman, Mines Manager representing the II Party/Shevaroys Bauxite Mines, Salem the authorised union representative of the I Party and the counsel for the II Party/Management are present before this Tribunal. A withdrawal memo has been filed by the I Party/Workman along with the receipt given by the I Party/Workman to the Management, acknowledging the receipt of bank demand draft for a sum of Rs. 75,000 (Rupees Seventyfive thousand only). The Petitioner/ Workman and the Management representative, who are the signatories to the Memorandum of Settlement under section 18(1) of the Industrial Disputes Act, 1947 dated 10-7-2001 filed along with joint memo were questioned with regard to the terms of the Settlement mentioned in the Memorandum of Settlement. Both of them accepted as correct. The I Party/ Workman requested this Tribunal to record this withdrawal of this industrial dispute as per the withdrawal memo, since he arrived at the settlement duly settled the dispute and had received the amount of Rs. 75,000 mentioned in the Memorandum of Settlement by way of a bank demand draft in full and final settlement of the claim raised in the dispute mentioned in Industrial Dispute No. 570/2001 pending on the file of this CGIT-cum-Labour Court, Chennai. Both the parties to the concerned dispute as well as Memorandum of Settlement present in the Court requested this Tribunal to pass a Settlement Award, in view of the Memorandum of Settlement and in view of the withdrawal memo filed by the I Party/Workman. Accordingly, the Memorandum of Settlement dated 10-7-2001 and the withdrawal memo

filed by the I Party/Workman to withdraw this industrial dispute, in view of the settlement of industrial dispute against the Management, are recorded.

3. In the result, a Settlement Award is passed in respect of this referred industrial dispute between the parties in terms of the Settlement mentioned in the Memorandum of Settlement under section 18(1) of the Industrial Disputes Act, 1947 dated 10-7-2001 filed into Court. The said Settlement Memorandum and the copy of the receipt issued by the I Party/Workman acknowledging the payment by the II Party/Management by way of bank demand draft shall be appended to the Award.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 24th July, 2001.)

K. KARTHIKEYAN, Presiding Officer

MEMORANDUM OF SETTLEMENT UNDER
SECTION 18(1) OF THE ID ACT, 1947

DATED : 10-7-2001

Parties to the Settlement:

Management of M/s. Shenvroys
Bauxite Mines Yercaud and
Thiru, S. Munuswamy,
represented by Thiru V. K. Nallamuthu
General Secretary, Shenvroys General
Employees Union, Yercaud.

Representing the management :

- (1) Thiru. A. Muralidharan
Vice-President (HR)
- (2) Thiru R. Chandrasekaran
Manager Mines.

Representing workmen:

- (1) Thiru V. K. Nallamuthu
General Secretary
- (2) Thiru. S. Munuswamy

The Shenvroys General Employees Union Yercaud

SHORT RECITAL OF THE CASE

Whereas an Industrial Dispute is pending before the Central Government Industrial Tribunal, Chennai (CGID No. 570/2001) regarding the non-employment of Mr. S. Munuswamy by the company for adjudication. During the pendency of the above case, both the parties mutually held discussions on various dates for settling this case out of court. Finally today this 10th day of July, 2001 after protracted discussions

both the parties arrived at an understanding and agreement to settle the dispute complete in all respect on the following terms.

Terms of Settlement:

(1) The parties agree that the workman Mr. S. Munuswamy will be paid a lumpsum amount of Rs. 75,000 in full discharge of this claim for reinstatement in service with Back wages, Bonus, Leave wages, Retrenchment compensation and other fringe benefits as claimed in the dispute No. CGID No. 570/2001 pending before the Central Government Industrial Tribunal-cum-Labour Court, Chennai.

(2) The parties agree that this amount of Rs. 75,000 (Rupees Seventy five thousand only) be paid in full and final settlement of the claim raised in the dispute CG ID No. 570/2001 before the Central Government Industrial Tribunal-cum-Labour Court, Chennai.

(3) The management agrees to pay the said amount i.e. Rs. 75,000 on or before 23-7-2001 to the workman Mr. S. Munuswamy in full and final settlement of the claim raised in the above dispute. The workman Mr. S. Munuswamy agrees not to raise any claim or file any case/reference in future regarding the issues raised in CG ID No. 570/2001 and any other issue relating to his employment or non-employment against the management. The workman Mr. S. Munuswamy agrees that he accepts the amount of Rs. 75,000 in full discharge of all his claims against the company and that no further claim shall be lodged/made by him or on his behalf against the company, on the issue of his employment or non-employment or otherwise in the company.

(4) The workman, Mr. S. Munuswamy agrees to withdraw the dispute bearing No. CG ID No. 570/2001 raised before the Central Government Industrial Tribunal-cum-Labour court on or before 30-7-2001 and further agrees that this settlement be filed before the said court.

In witness thereof both the parties Heither to have agreed and subscribed their respective signatures to this settlement on this 10th day of July, 2001.

Representing the Management

- (1) A. Muralidharan
- (2) R. Chandrasekhar

Witnesses :

- (1) Sd/-
Representing the Workmen
- (1) V. K. Nallamuthu
- (2) S. Munuswamy
(S. Munuswamy)
(M. KANDASAMY)
- (2) Sd/-
(N. SUBHA)

नई दिल्ली, 14 अगस्त, 2001

का. आ. 2338— औद्योगिक विवाद विधिनियन, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सुपरिनेंटडेट आंक रेलवे मेल मॉर्ट्स, के प्रबंधालय के संबद्ध नियोजकों और उसके कर्मचारों के बीच, प्रत्युत्थ निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार प्राइवेट अधिकरण, /श्रम मंत्रालय चेन्नई के पंजाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-08-2001 को प्राप्त हुआ था।

[सं. एल- 40012/136/95-प्राई. आर. (डी. य.)]
कुलदीप राय वर्मा, डैस्क अधिकारी

New Delhi, the 14th August, 2001

S.O.2338. In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Supdt. of Railway Mail Service and their workman, which was received by the Central Government on 14-8-2001.

[No. L-40012/136/95-IR(DU)]
KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Thursday the 2nd August, 2001

Present : K. KARTHIKEYAN, Presiding Officer

INDUSTRIAL DISPUTE No. 400/2001

(Tamil Nadu State Industrial Tribunal I.D.No.58/96)
(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Workman Shri K. Balasubramaniam and the Management of Superintendent of Railway Mail Service, Coimbatore.)

BETWEEN

Sri K. Balasubramaniam : I Party/Workman

AND

The Superintendent of : II Party/Management
Railway Mail Service,
Coimbatore,

Appearance :

For the Workman : Sri M. Gnanasokar,
Advocate.

For the Management : M/s. C. K. Visl nu Priya,
Advocates

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of the 1947), have referred the case of Industrial Dispute for adjudication vide Case No.L-40012/136/95-IR(DU) dated 26-07-1997.

This reference has been made earlier to the Tamil Nadu State Industrial Tribunal, where it was taken on file as I.D. No. 58/96. When the matter was pending enquiry in that Tribunal, the Govt. of India, Ministry of Labour was pleased to order transfer of this case from that Tribunal to this Tribunal for adjudication. On receipt of records from that Tribunal, the case has been taken on file as I.D. No. 400/2001 and notices were sent to the counsel on either side informing them about the transfer of this case to this Tribunal with a direction to appear before this Tribunal on 22-02-2001. On receipt of notice from this Tribunal the counsel on either side were present with their respective parties and prosecuted this case further.

When the matter came up before me for final hearing on 02-07-2001 upon perusing the Claim Statement Counter Statement, other material papers on record, upon perusing the documentary evidence let in on either side and upon hearing the arguments advanced by the learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following :

AWARD

The Industrial Dispute referred to in the above order of reference by the Central Govt. for adjudication by this Tribunal is as follows :

“Whether the action of the Management of Senior Superintendent of Railway Mail Service, Coimbatore in dismissing Shri K. Balasubramaniam, and ex. S.G. Mailman is just, proper and legal? If not, to what relief the workman is entitled?”

2. The averments in the Claim Statement filed by the I Party/Workman are briefly as follows :

The I Party/Workman Sri K. Balasubramaniam (hereinafter referred to as Petitioner) joined the II Party/Postal department as Mailman on 30-6-1973 at Erode sub-record office (RMS). The Petitioner has put in nearly 20 years of service. On 11-12-91, the II Party/Management, Superintendent of Railway Mail Service, Coimbatore Division (hereinafter referred to as Respondent) has given a charge memo alleging that while the petitioner was working as Mailman in Erode RMS/Mail, on 5-8-90 has stolen the recorded delivery article No. 53 dated

4-8-90 booked at Nagapattinam HO and received by Erode RMS/Mail on 5-8-90 and thus he contravened the provisions of Rule 3.1(i) (ii) and (iii) of CCS (conduct) Rules, 1964. The Petitioner submitted his explanation to the charge memo. Then another charge memo dated 21-2-92 was issued by the Director of Postal Services, O/o Post Master General, Western Region, Tamil Nadu at Coimbatore to the Petitioner with regard to the same charges. It is further alleged in that charge memo that with the help of documents contained in the R.D. article got the goods intended for M/s. M.U. RA & Sons. Salem-636 904 delivered to him from the TVS Parcel Office, Salem-636 004. There was no reference to the charge memo dated 11-12-91 in the charge memo dated 21-2-92. The Petitioner requested the Enquiry Officer by an application dated 22-2-94 to permit Mr. Venugopal (retired HSA) who was residing in Madras to work as his defence assistant, since it was difficult for him to get the assistance of defence assistant, as he did not know any official in Erode. However, the Enquiry Officer has rejected his request for engaging the defence assistant from Madras. The Enquiry Officer has failed to apply his mind the sub-rule 8a of Rule 14 and the proviso of CCS (CCA) Rules. During the enquiry six witnesses were examined and there was no evidence to show that the Petitioner was responsible for the charge. The entire evidence in the enquiry is only a hearsay evidence and neither there was direct evidence nor there was any corroborative evidence to support the hearsay evidence. The evidence of PW1 is an inadmissible evidence because had the incident been true, the PW1 would have been given a police complaint and there was no police complaint regarding the alleged incident. That only shows that the Petitioner was not connected with the incident and he has been falsely implicated. PW2 Mr. Rajendran has stated in the enquiry that he has conducted an enquiry based on a complaint from M/s. MRS agencies, Nagapattinam, but no such copy of the complaint was given to the Petitioner during the enquiry. In fact, when the Petitioner requested for a copy of the complaint, the II Party/Management informed that no such complaint has been received. Hence, there was no basis at all for charging the Petitioner. PW3 has obtained a statement dated 8-11-90 which was marked as a prosecution document (Ex.P4) and the said statement was obtained from him under threat and coercion and when the contents of the statement has been said to be obtained under duress it cannot be marked as a prosecution document and if at all it can be marked during the enquiry, it can be marked only through the petitioner, who is the author of the document. The Enquiry Officer ought not to have relied upon the alleged admission in his statement dated 8-11-90 given to PW3 particularly when the

contents of the statement have been retracted during the course of enquiry. The other witnesses were also not directly related to the alleged charge. The petitioner during the enquiry has denied the charges. However, the Enquiry Officer in the enquiry report has held the charges were proved. Therefore the enquiry reports dated 21-2-92 and 22-3-92 are illegal and the findings of the Enquiry Officer that there is no valid evidence as a base for the findings of the Enquiry Officer. Based on the enquiry report, a memo dated 19-11-92 was issued to the Petitioner. The Petitioner has submitted an explanation to the said memo. Not satisfying with the explanation submitted by the Petitioner, the II Party/Management passed an order on 10-2-93 dismissing the Petitioner from service. The Petitioner has filed an appeal on 3-3-93 before the Appellate Authority against the order of dismissal from service. The Appellate Authority has mechanically rejected the appeal without considering the various aspects raised in the appeal. Both the Disciplinary Authority and Appellate Authority ought to have seen whether the charges are proved based on evidence and also the gravity of the misconduct and the proportionality of the punishment and also the 20 years of unblemished service put in by the Petitioner. Therefore, imposing the punishment of dismissal from service is illegal and arbitrary. Hence, the Tribunal may be pleased to set aside the order of dismissal dated 10-2-93 issued by the Disciplinary Authority which was confirmed by order dated 12-7-93 by the Appellate Authority and direct the II Party/Management to reinstate the Petitioner in service with continuity of service and back wage.

3. The averments in the Counter Statement filed by the II Party/Management are briefly as follows :

The Petitioner while working as Mailman in Erode RMS/mail on 5-8-90 has fraudulently taken away the Recorded Delivery Article No. 53 dated 4-8-90 booked at Nagapattinam HO containing lorry receipt (way bill) while passing through his post and with the help of documents contained in the RD article took delivery of the goods which were sent to M/s. M.U.R.A & Sons, Salem by M.R.S. Agencies, Nagapattinam through TVS parcel service. The charge sheet Dated 11-12-91 under Rule 14 of CCS (CCA) Rules, 1965 was issued to the Petitioner. The Petitioner has received the said charge sheet on 13-12-91. The said charge sheet was cancelled due to technical reason vide Memo dated 21-2-92 and a fresh charge sheet dated 21-02-1992 was issued to the Petitioner and the same was received by him on 25th. The Petitioner has submitted his explanation to the charge sheet on 23-03-1992 denying the charges. Under sub-rule 8(a) of Rule 14 of CCS (CCA) Rules, the Enquiry Officer has the power to

disallow the defence assistant nominated, if he does not belong to the Headquarters of the charge sheeted employee or the place of enquiry. An enquiry has been conducted as per the rules and six witnesses were examined. The sender of the article had made of complaint regarding non-delivery of RD Articles and about the incident vide his letter dated 10-8-90 which was produced as a prosecution exhibit. M/s. M.R.S. agencies, Nagapattinam had lodged a complaint regarding non-reaching of R.D. No. 53 dated 4-8-90 containing lorry way bill with invoices to MU. RA sons, Salem vide letter No. A/10/136/90 dated 10-8-90. The said complaint has been marked as document No. 1 in Annexure III to the charge sheet. As per the direction of Senior Superintendent of Post Offices, Salem East Division, PW2 Mr. P. Rajendran enquired into the matter and submitted his report on 23-10-90. The statement given by the Petitioner before PW3 has been marked as one of the prosecution document and the Petitioner himself examined as witness before the Enquiry Officer and admitted that he had given the statement. The contention of the petitioner that the other witnesses were not directly related to the alleged charge is not correct. Witnesses 2, 3 and 4 are the departmental officers who have conducted the preliminary enquiry and witnesses 5 and 6 are the parties connected with booking of recorded delivery article No. 53 of Nagapattinam and witness No. 1 is the party to whom the RD Article was addressed to. All departmental procedures have been duly followed as contemplated in Rules. Only after careful consideration of the Petitioner's representation in the findings of the Enquiry Officer, the Disciplinary Authority has ordered the punishment of dismissal dimissal of the petitioner from service. The Appellate Authority only after careful examination and consideration of the case in detail rejected the appeal and confirmed the punishment awarded by the Disciplinary Authority. Only after affording all reasonable opportunities as laid down in Rule 14 of CCS (CCA) Rules, 1965, the Sismissal order was issued. Hence, the legality of the dismissal order is not disputable. Hence this Hon'ble Tribunal may be pleased to dismiss the petition with cost.

4. When the matter was taken up for enquiry by the Tamil Nadu State Industrial Tribunal, documents were marked with the consent of both sides, as Ex. W1 to W6 and M1 to M20. and when the matter was pending therefor arguments of the counsel on either side, as per the orders of the Central Govt., this case has been transferred to this Tribunal for further adjudication. Subsequent to the case has been taken up here for the continuation of the enquiry, at the request of the counsel on either side, the matter was being adjourned from to time for the counsel to advance their arguments and

finally it was taken on 2-7-2001. The learned counsel on either side have advanced their respective arguments.

5. The point for my consideration is—

“Whether the action of the Management of Senior Superintendent of Railway Mail Service, Coimbatore in dismissing Shri K. Balasubramaniam, an ex S.G. Mailman is just, proper and legal? If not, to what relief the workman is entitled?”

Point :

It is admitted that the I Party/Workman, Sri K. Balasubramaniam the Petitioner herein was working as S.G. Mailman in Erode RMS/Mail on 5-8-90. It is alleged that on that day the petitioner had fraudulently taken away the recorded delivery article No. 53 a dated 4-8-90 booked at Nagapattinam HO containing lorry receipt (way bill) while passing through the post and with the help of documents contained in the R.D. article took delivery of the goods which was sent to M/s. MU. RA & Sons, Salem by MRS, Agencies Nagapattinam, through TVS parcel Office. For this, a charge sheet dated 11-12-91 was issued to the Petitioner. Subsequently, that was cancelled and the fresh charge sheet dated 21-02-92 was issued to the petitioner. It is the contention of the learned counsel for the Petitioner that after the 1st charge sheet dated 11-2-91 was issued by the Respondent/Management to the Petitioner/Workman, there was no change in circumstances, warranting the cancellation of the same and hence the cancellation of that charge sheet dated 11-12-91 by the Disciplinary Authority by his memo dated 21-2-92 amounts to complete exoneration. He would further contend that once it is cancelled it is not open to the Disciplinary Authority to issue a second charge sheet for the same alleged misconduct.

6. The learned counsel for the Respondent would argue that the 1st charge sheet issued to the Petitioner dated 11-12-91 was cancelled on technical reasons and a 2nd charge sheet dated 21-2-92 was issued with a list of witnesses and annexure and there is no difference between both the charge sheets in mentioning the act of misconduct committed by the employee Sri K. Balasubramaniam and as such there is no difference at all in both the charges sheets and there is no variation and there is no new charge added in the 2nd charge sheet and there is no undue delay in giving the 2nd charge sheet. So the objection raised by the learned counsel for the Petitioner in this regard in his argument does not stand good. Ex. M1 is the xerox copy of the 1st charge sheet dated 11-12-91. Ex. M2 is the xerox copy of the acknowledgement dated 13-12-91 given by the Petitioner for having received the charge sheet under

Ex. M1. The Ex. M3 is the xerox copy of memo dated 21-2-92 issued canceling the charge sheet dated 11-12-91 on technical reasons. Ex. M4 is the xerox copy of the charge memo dated 21-2-92 issued to the Petitioner with annexures 1 to 4 containing a list of documents and list of witnesses. What that is omitted to be mentioned in annexures 1 and 2 as statement of articles of charge framed against the Petitioner and the statements of imputations of misconduct or misbehaviour respectively have been stated in the 2nd charge sheet. Further, in annexure 3 of the 2nd charge sheet, the further document as No 8 as one statement of the Petitioner dated 8-11-90 has been added as a vital document. So that was why a cancellation memo dated 21-11-92 cancelling M1 charge sheet was issued. So it cannot be said that the cancellation of the 1st charge sheet under the memo Ex. M3 amounts to complete exoneration of charge under Ex. M1. In Ex. M3 cancellation memo itself it is clearly stated that the earlier charge memo dated 11-12-91 stands cancelled for technical reasons. Further it is seen from both the charge sheets that there is no variation in charge or a new charge has been added in the 2nd charge sheet and there is no difference at all in both the charge sheets, while mentioning about the alleged misconduct of the Petitioner on 5-8-90. So under such circumstances, it cannot be said since the 1st charge sheet has been cancelled by the Disciplinary Authority, it is not open to him to issue a second charge sheet to the same misconduct.

7. The learned counsel for the Petitioner would put forth a contention that the Petitioner's right to represent by his defence assistant against the charge has been curtailed by the order of the Enquiry Officer and the rejection of the request of the Petitioner, the charge sheeted employee, in the enquiry by the Enquiry Officer is arbitrary and it is contrary to Rules. So, it amounts to a denial of fair opportunity to the charge sheeted employee to put forth his defence effectively. The learned counsel for the Respondent had argued that the arguments of the learned counsel for the Petitioner on this aspect cannot be accepted as correct because the Enquiry Officer has given his decision by rejecting the request of the charge sheeted employee for engaging the defence assistant to defend him in the enquiry and he has given his reasoning in his report after duly discussing the matter in detail and he has taken a decision only in accordance with the Rule 8(a) of CCS (CCA) Rules, 1964. Ex. M8 is the xerox copy of sub-rule 8(a) & (b) of Rule 14 of CCS (CCA) Rules. It reads as follows :

"8(a) The Govt. servant may take the assistance of any other Govt. servant posted in any office either at his Headquarters or at the place where the enquiry is held, to present the case

on his behalf, but may not engage a legal practitioner for the purpose, unless the Presenting Officer appointed by the Disciplinary Authority having regard to the circumstances of the case, so permits.

Provided that the Govt. servant may take the assistance of any other Govt. servant posted at any other station. If the inquiring authority having regard to the circumstances of the case and for reasons to be recorded in writing so permits.

(b) The Govt. servant may also take the assistance of the retired Govt. servant to present the case on his behalf subject to such conditions as may be specified by the President from time to time by General or Special order in this regard.

It is seen from the records that the Enquiry Officer has exercised from his power vested on him in allowing the appointment of defence assistant as enjoined in sub-rule 8(a) of Rule 14 of CCS (CCA) Rules, 1965. It is also seen from the records of this enquiry proceedings that the petitioner had nominated Sri V. V. Shanmugam, a Telephone Supervisor from Erode as his defence assistant first and the same was permitted by the Enquiry Officer. But, that defence assistant had withdrawn on his own accord. Secondly, the Petitioner nominated one Sri K. Venkatarangaraju, a retired Postal Assistant, Cauveri RSPO as his defence assistant. He was also permitted by the Enquiry Officer. Further it is seen from the records that sufficient time was given to the Petitioner to engage his defence assistant and the 2nd defence assistant is also of his choice, who took part in the enquiry No. special reason been given by the Petitioner for his request to engage the retired HSA Mr. Venugopal, residing at Madras as his defence assistant. From this it is seen that an ample opportunity was given to the petitioner to have his defence assistance and no prejudice has been caused to him in not permitting a man from Madras, a retired Govt. official to have as the defence assistance of the choice of the Petitioner. It is also not the case of the Petitioner that except the person from Madras, he has no confidence on any other person to have him as his defence assistant. It is seen from records, daily order sheet No. 2, that the Enquiry Officer has considered the request of the Petitioner and had passed a valid order given reasons of rejecting this request. It was not disputed by the Petitioner at any point of time. The decision given by the Enquiry Officer on this aspect is not a violation of Rule 14.8(4). Under such circumstances, the argument advanced by the learned counsel for petitioner that the decision of Enquiry Officer in rejecting the request of the Petitioner for engaging the defence assistance of his choice is contrary to Rules and arbitrary is not correct and acceptable.

8. It is seen from the enquiry proceedings that deposition PWs Ex. M10 that PW1 Mr. Ramesh is recipient of recorded delivery. The RD No. 53 dated 4-8-90 is meant for him. He has spoken about the non-delivery of the same and has also given statement on 22-9-90 and 21-11-90. PW5 one M. R. Rangaramulu Naidu of Nagapattinam of MRS agencies has spoken about the non-delivery of RD No. 53 dated 4-8-90 to the addressee and about his giving compliant for the same to the Nagapattinam postal authorities on 10-8-90. In the cross examination also, it has stated that the addressee of R.D. 53 have informed him by writing that they have not received the documents contained in that R.D. PW6 M.R. Rajagopal also has corroborated the evidence of PW5. So from this, it is seen that the consignor and recipient have been examined before the Enquiry officer as Management witnesses. The departmental officer who has done the preliminary enquiry has also been examined. The relevant documents listed as Annexure 2 to charge sheet (memo of charge) have been marked as Ex.M14. From this it is seen that MRS agencies have sent a compliant dated 10-8-90 to the Postmaster, Head Post office, Nagapattinam with regard to recorded delivery No. 53 dated 4-8-90. It has been marked as Ex.P3 in the enquiry. Again they have sent a letter dated 9-8-91 to the Assistant Superintendent Erode RMS, Erode and it is marked as P5. In the enquiry, they have submitted xerox copy of document kept in the recorded delivery article. There is no dispute that the recorded delivery article was posted. It is seen from the enquiry proceedings that there is sufficient evidence to show that the Petitioner, taking out the article from the recorded delivery article and took delivery of the article from the TVS parcel office at Salem. There was no dispute about the occurrence spoken to by the Management witnesses and there was no contra evidence on the side of the Petitioner, charge sheeted employee. Ex. P4 marked in the enquiry is the written confession of the Petitioner dated 8-11-90 before the Enquiry Officer. Before ever the enquiry has been conducted he has not retracted this confession given in writing. Only after lapse of two years during enquiry only he had denied about this written confession. Through he has stated that Ex.P4 statement was obtained under coercion, he has admitted that he has not given any report to the higher authorities about the alleged coercion by the official to get Ex. P4 confession statement from him. The learned counsel for the Petitioner would contend that "the entire prosecution case rest on the assertion of the cartman, who was not examined as witness in the enquiry and no statement from the cartman also has been obtained and hence there is no evidence to connect the Petitioner to the charges. Therefore, the findings of the Enquiry Officer is not based on any valid evidence and it is only perverse" He has further argued that "Enquiry Officer has,

committed an error in admitting the alleged confession statement Ex. P4 marked through PW3 and what and what that is available in this case is only hearsay evidence and none of the witnesses examined by the Management in the enquiry has directly connected the Petitioner to the charges and the goods were recovered and there was no loss to anybody. So under such circumstances, imposing the punishment on the Petitioner by dismissing him from service without considering his 20 years of unblemished service is shockingly disproportionate to the charge and hence it is a fit case. Wherein this Tribunal can interfere with the punishment imposed by exercising its jurisdiction under section 11A of the Act and to award appropriate relief to the Petitioner/ Workman".

9. The learned counsel for the II Party Management would argue that "the charge sheeted employee the Petitioner herein has submitted his explanation dated 23-3-92 for the charge sheet dated 21-2-92. It is marked as Ex.M7. Now herein in that explanation he has stated that his confession statement dated 8-11-90 marked in the enquiry as Ex.P4 was obtained from him under undue influence, threat and coercion. If really the said statement was obtained under coercion and threat, the Petitioner would not fail to mention the same in his reply Ex.M7 which he submitted as an explanation after one year and three months as his explanation to the 2nd charge sheet under Ex. M4. So it is only an after-thought of the Petitioner and it should not be believed. Further the non-inclusion of the cartman as a witness for the Management and non-examination of that witness before the Enquiry Officer by the Management cannot be considered as invalid, since he is not a material witness to establish the charge against the charge sheeted employee, the Petitioner herein". He would further argue that "the proved misconduct of the Petitioner does not warrant any leniency in imposing punishment by the Disciplinary Authority. The Petitioner being a responsible staff for the Respondent/Postal Department had committed the act of misconduct by removing the recorded delivery article clandestinely while in transition and thereby made use of that contents of recorded delivery article, which is meant for the consignee and took delivery of the same from the TVS Parcel office by impersonating him as a man of the consignee and hence it is a serious misconduct and such a person cannot be kept in service inside the office of the Respondent and hence the Disciplinary Authority was correct in taking a decision in dismissing such a person, who has committed a grave misconduct. The gravity of the punishment imposed for such a serious misconduct by the Disciplinary Authority cannot said to be disproportionate and hence this Tribunal may not exercise its jurisdiction under section 11A

of the Industrial Dispute Act to interfere with the punishment imposed by the Disciplinary Authority against the Petitioner/Workman to modify the same as a lesser punishment. So, the argument advanced by the learned counsel for the Petitioner need not be accepted as correct."

10. A perusal of the entire records placed before me clearly establish that the arguments advanced by the learned counsel for the Respondent can be accepted as correct as it is based on legal evidence available on the side of the Management during the enquiry. Only after considering all the materials both oral and documentary evidence placed before him, the Enquiry Officer has come to a proper conclusion that the charges levelled against the Petitioner, charge sheeted employee has been proved and the Disciplinary Authority also after affording sufficient opportunity to the charge sheeted employee and also after considering the entire materials and the findings of the Enquiry Officer has come to the proper conclusion in awarding punishment to the Petitioner, delinquent employee. So under such circumstances, I find that there is no scope for this, Tribunal to interfere with the punishment imposed by the Disciplinary Authority against the Petitioner/ Workman by exercising jurisdiction of this Tribunal under section 11A of the Industrial Disputes Act Under such circumstances, I answer the point in the affirmative and conclude that the Petitioner concerned workman is not entitled to any relief.

11. In the result, an award is passed holding that the action of the Management of Sr. Superintendent of Railway Mail Service, Coimbatore in dismissing Sri K. Balasubramaniam, an Ex. S.G. Mailman is just, proper and legal and the concerned workman is not entitled to any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 2nd August, 2001).

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :

On either side : None

DOCUMENTS MARKED :

For 1 Party/Workman :

Ex.No. Date Description

W1	20-06-92	Xerox copy of the letter from the Petitioner to the Enquiry Officer.
W2	26-06-92	Xerox copy of the letter from the Enquiry Officer to the Petitioner.
W3	04-07-92	Xerox copy of the enquiry proceedings.
W4	04-07-92	Xerox copy of daily order sheet No. 4.

W5	Nil	Xerox copy of representation of the Petitioner against the enquiry report.
W6	Nil	Xerox copy of the appeal made by the Petitioner to the Management.
For the II Party/Management :		
Ex.No.	Date	Description
M1	11-12-91	Xerox copy of Memo No. CR/K3/90.
M2	13-12-91	Xerox copy of acknowledgement of C.O.
M3	21-02-92	Xerox copy of cancellation of Memo No. CR/K3/90 of the charge sheet.
M4	21-02-92	Xerox copy of the Fresh charge sheet Memo No. CR/K3/90.
M5	25-02-92	Xerox copy of the acknowledgement of C.O.
M6	Nil	Xerox copy of letter of the Petitioner to the Management.
M7	23-03-92	Xerox copy of letter of the Petitioner to the Management.
M8	Nil	Xerox copy of sub-rule 8(a) of CCS (CCA) Rules, 1965.
M9	22-04-92	Xerox copy of daily order sheet No. 2.
M10	24-08-92 25-08-92 27-08-92 28-08-92	Xerox copy of deposition of PW 1 to PW 6
M11	28-08-92	Xerox copy of the deposition of the Petitioner.
M12	10-08-90	Xerox copy of letter No. A/10/136/90.
M13	23-10-90	Xerox copy of Letter No. PR1/(P)/ I Selen HO
M14	Nil	Xerox copy of Management exhibits.
M15	08-11-90	Xerox copy of the enquiry report against the Petitioner.
M16	28-04-92	Xerox copy of letter from the Petitioner to the Enquiry Officer.
M17	05-06-92	Xerox copy of letter from Sri V.V. Shanmugham to the Enquiry Officer.
M18	13-06-92	Xerox copy of letter from the Petitioner to the Enquiry Officer.
M19	10-02-93	Xerox copy of Memo No. CR/K3/90-order of the Disciplinary Authority.

M20 12-07-93 Xerox copy of Memo No. STB/20518/93-order of the Appellate Authority.

नई दिल्ली, 14 अगस्त, 2001

का. आ. 2339.— श्रीदीगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुमति में, केन्द्रीय सरकार सी.पी.डब्ल्यू.डी. के प्रबंधात्मक के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट श्रीदीगिक विवाद में केन्द्रीय सरकार श्रीदीगिक अधिकरण लघुनक के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-08-2001 को प्राप्त हुआ था।

[सं.एन-42011/3/2000-प्राई.आर. (टी.ट.)]

कुलदीप गय वर्मा, डैस्ट्र अधिकारी

New Delhi, the 14th August, 2001

S.O. 2339.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court Lucknow as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of C.P.W.D. and their workman, which was received by the Central Government on 14-8-2001.

[No. L-42011/3/2000-IR/DU]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

Present :

Presiding Officer : Rudresh Kumar

ADJUDICATION

I.D. No. 24/2000

BETWEEN

Shyam Narain
S/o. Sri Badloo
Kharetha
Aishbagh
Lucknow.

AND

Executive Engineer (Elect. Coord.),
Central Electric Division,
Central Public Works Deptt.,
GSI Campus, Aliganj,
Lucknow.

By reference No. L-42011/3/2000/IR (DU) dated 15-3-2000, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 I.D. Act, 1947 made over this industrial dispute between Shyam

Narain S/o. Sri Badloo and Executive Engineer (Elect. Coord.), Central Electric Division, Central Public Works Deptt., Lucknow for adjudication. The reference is re-produced as under :

“Whether the action of Central Public Work Deptt., in not promoting Shyam Narain, Khalasi to the post of Wireman is legal and justified ? If not to what relief the workman is entitled ?”

I. Shyam Narain, a Khalasi, was appointed on 4-8-86. His work and behaviour had always been good. He was senior to Gulab Chand Mishra, also a Khalasi, working with the management who was promoted as Asstt. Wireman, ignoring his claim. Grievance of the workman is that denial of promotion to him in preference to his junior is arbitrary and against rules. It is also averred in the claim statement that the post of Asstt. Wireman has since been redesignated as 'Wireman' from 18-4-1995 and he is entitled to the said post with back wages and interest on the arrears.

2. Management has not denied facts of the case. Mr. M. L. Rora, Executive Engineer, who appeared in person, admitted that two employees Gopal Bahadur and Gulab Chandra Misra were promoted on the post of Asstt. Wireman. Gulab Chand Misra was junior to the workman. This fact came to notice and the promotions were reviewed. Both the promotees were reverted. Aggrieved by reversion, they approached Central Administrative Tribunal, Allahabad. The said Tribunal by order dated 27-2-1997 stayed their reversion and ordered to maintain status quo. According to the management, the reverters are still working as wireman on the basis of interim order of the Central Administrative Tribunal.

3. Thus, the facts : That the workman was senior to Gulab Chand Misra, and his non-consideration on promotional post of Asstt. Wireman, are not denied. Management has not pleaded that the workman was otherwise disqualified on the ground of unsuitability. It is informed by Mr. Rora that the mistake occurred inadvertently, and it was not with a view to cause loss to anyone. When these irregularities came to notice, redressal measures were taken by reverting the promotees. He also pointed out that the reverters are holding the post of wireman, consequent upon the interim order of the Central Administrative Tribunal, Allahabad and also on resignation of the post of Asstt. Wireman to Wireman.

4. Thus, on the basis of admitted facts, the workman was eligible and entitled to the post of Asstt. Wireman on the date, his junior Gulab Chand Misra was promoted and in all fairness in preference to him. His non-consideration, was, definitely a serious lapse on the part of the management. The management recognised this mistake and reverted the promotees,

but no evidence is given that the workman was considered for promotion at the time of reversion. Posts of Asstt. Wireman were also available. Action of the management, thus, can not be justified because revision orders were passed, without considering promotion of the workman. The contention of the management, that the revertors are holding position *quo tempore* on account of interim order of the Central Administrative Tribunal, in their favour is also not correct. The Tribunal ordered to maintain status quo but not to treat them wireman, a higher post in higher scale. The management should have treated them Asstt. Wireman, notionally, and should have paid the last salary of the said post. By treating them 'Wireman' in higher scale, the management acted arbitrarily without realising the consequential loss to the workman and those similarly situated. Management filed copies of orders dated 7-11-2000, showing rectification of this mistake. Rectification of mistake by the management, however, does not give relief to the workman whose due promotion was denied unjustly since 18-4-95, causing loss of benefits arising on redesignation of the post of Asstt. Wireman to Wireman.

5. In the circumstances, the action of the management in non-considering promotion of the workman from the date his junior was promoted, was unjustified and illegal. The workman, being senior to Gulab Chand Misra is entitled to promotion on the post of Asstt. Wireman from 18-4-1995 and further, on the post of wireman, consequent upon redesignation of the posts.

Thus, in the facts and circumstances of the case, the award is as follow :

- A. that the workman Shyam Narain is entitled to promotion as Asstt. Wireman from 18-4-1995;
- B. that consequent upon merger of the semi-skilled and skilled posts, he is entitled to the post of Wireman in Group 'C'; from the date of the order became effective; and
- C. that the workman, is, also entitled to difference of wages from 18-4-1995 as per relevant rules.

Lucknow :

27-11-2000 RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 16 अगस्त, 2001

का.आ. 2340.— ग्रीष्मोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आर्किलॉजिकल सर्वे आंक इंडिया के प्रबंधताव के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनवंश में

निर्दिष्ट ग्रीष्मोगिक विवाद में केन्द्रीय सरकार ग्रीष्मोगिक अधिकरण भुवनेश्वर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-08-2001 को प्राप्त हुआ था ।

[सं.एल-42012/197/98-आई.आर. (डी.यू.)]

कुलदीप राय वर्मा, डैम्स अधिकारी

New Delhi, the 16th August, 2001

S.O. 2340.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Archaeological Survey of India and their workman, which was received by the Central Government on 16-8-2001.

[No. L-42012/197/98-IR (DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESHWAR

PRESENT :

Shri S. K. Dhal, OSJS, (Sr. Branch),
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

Tr. Industrial Dispute Case No. 196/2001

Bhubaneswar, the 2nd August, 2001

BETWEEN :

The Management of Archaeological Survey of India,
Horticulture Division No. 4,
Lewis Road, Near Ravi Talkies,
Bhubaneswar, Distt. Khurda.

— 1st Party-Management

AND

Their Workman Shri Satyabadi Behera,
S/o. Jogi Behera,
At. Akachalia, P.O. Sangalai Sasan,
P.O. Pipili, Distt. Khurda. —2nd Party-Workman

APPARANCES :

Mr. Sunakar Pradhan, For the 1st Party-
Foreman, Management.
Horticulture Division No. IV,
Bhubaneswar.

Shri Satyabadi Behera. —For himself
Workman.

AWARD

The Government of India in the Ministry of
Labour, in exercise of powers conferred by clause (d)

of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), have referred the following disputes for adjudication vide their Order No. L-42012/197/98/IR (DU), dated 24-12-1998 :—

“Whether the action of the management of Archaeological Survey of India in refusing to engage Shri Satyabadi Behera is legal and justified ? If not, what relief the workman is entitled to ?”

2. The parties to the reference are the Management of Archaeological Survey of India, (hereinafter called as the 1st Party Management) and Shri Satyabadi Behera (hereinafter called as the workman).

3. The case of the 2nd Party Workman is that he was engaged under the Management as NMR in the year 1986 on monthly wages at Rs. 1,455/- per month. According to him he was discharging his duties in the maintenance of garden, plants and lawns. He rendered continuous service till 20-2-1996. He along with co-workmen filed a case before the Central Administrative Tribunal for regularization. All of a sudden the Management refused employment to him without compliance of Section 25-F, 25-G & 25-H of the Industrial Dispute Act. It has been further pleaded that the principle of last come first go has not been followed. According to the workman after their dis-engagement the 1st Party Management gave employment to 20 such workmen in their place which is contrary to law. As per the direction of the Central Administrative Tribunal though the gradation list was prepared on 31-10-1997 it was defective and was made without application of mind. The workman raised an Industrial Dispute before the Asstt. Labour Commissioner (Central), Bhubaneswar. As the case was pending before the Central Administrative Tribunal, the Asstt. Labour Commissioner refused for taking any action so the workman moved the Hon'ble High Court of Orissa in O.J.C. 3703/98 wherein the direction was given to re-consider the matter. In compliance to the said direction reconciliation was resumed and on failure of the same, the present reference has been made.

4. The workman has challenged his removal from service and has claimed reinstatement with back wages and other service benefits with effect from 21-2-1996.

5. The Management in their written statement has challenged the averments made in the claim statements. It is pleaded that, the workman was a seasonal casual worker. His engagement was being required on the availability of works in different gardens. It has been further pleaded that the workman has not completed 240 days continuous work in a year. It has been further pleaded on behalf of the Manage-

ment that in the gradation list the name of the workman finds place at Sl. No. 47. It is stated by the Management that as per the direction of the Central Administrative Tribunal they have prepared the seniority list and given engagement. Denying the allegations of the violation of the provisions of Industrial Dispute Act as pleaded by the workman, it has been pleaded that the workman is not entitled to any relief.

6. On the pleadings of the parties the following issues were settled :

I. Whether the action of the management of Archaeological Survey of India in refusing to engage Shri Satyabadi Behera is legal and justified ?

II. If not, what relief the workman is entitled to ?

FINDINGS

7. ISSUE NO. I :

The workman has examined himself as a solitary witness in support of his case. Though in his claim statement he has stated that he was getting Rs. 1,455/- per month he has deposed on oath that he was getting monthly wages at Rs. 240 - per month and he has got Rs. 1,500/- when his service was terminated. It is his version that the Management has terminated his services without serving any notice and several workmen junior to him were allowed to continue in the employment. He has admitted to have filed a case before the Central Administrative Tribunal. On the other hand the Management has examined one witness who was stated that the workman was engaged as a casual labourer on daily wages basis and he was being paid under muster rolls. He has proved the muster roll which has been exhibited in this case as Ext. A wherein payment of Rs. 150/- has been reflected to have been made to the workman for working six days from 8-10-1991 to 14-10-1991. This witness has also proved the engagement list which has been exhibited as Ext. D in this case showing the engagement of the workman. The copy of the order of Central Administrative Tribunal has been filed which has been exhibited in this case as Ext. C. It transpires from the evidence that the present workman and his friends were raised a plea for their regularization before the Central Administrative Tribunal. Direction was given for preparation of the seniority list and for engagement of seniors. The workman has challenged the seniority list prepared by the Management but failed to produce any evidence for its correction. The gradation list which has been exhibited

as Ext.-B resilee's 'I' can be number of days worked by him in different year starting from 1987 to 1997. Nowhere he has completed 240 days. After consideration of the evidence adduced by both the parties I am of the opinion that the engagement of the workman was casual in nature depending on the availability of the work. So in that case he has got no right for notice or compensation before termination of his service as required under Section 25-F of the Industrial Dispute Act.

8. As I have already stated the workman has failed to give evidence in support of his contention that the gradation list prepared by the Management is defective. Even if it is accepted for argument sake and his contention is true it is open to him to agitate the fact before the Central Administrative Tribunal. The workman has failed to place the materials to establish his seniority over the persons so there is no scope for him to complain on violation of Section 25-G of Industrial Dispute Act.

9. While submitting written argument the workman has placed reliance in the case of Air India Limited-Versus-Dharmender Kumar, reported in 2000(87) FLR 654. The case of M/s. Scooter India Ltd.-Versus -M. Mohammad Yaqub reported in 2001 LAB. I. C. 71 and the case of Samishta Dube Versus City Board & reported in 1990 LLR 460. The facts of the case stated above are different from the facts of the present case. In Samishta Dube's case it was held that the principle of first come last go should be adhered to in the matter of retrenchment. The position of law is not disputed. It is indeed difficult to find fault that the Management in dispensing the services of the workman whose position in the seniority list is at 47. In the other case between M.C.D. Versus P. K. Jain & Others, the workman had worked for three years and in that case it was held that the provisions of Section 25-F of the Industrial Dispute Act would be applicable in the case of retrenchment. In the instance case the engagement is less than 240 days. The facts of the above cited case stated by the work are distinguishable from the facts of the present case. After consideration of the materials placed I am of the opinion that the refusal of the employment to the 2nd Party Workman is neither illegal or unjustified. Hence, this issue is answered in favour of the Management.

10. ISSUE No. II

In view of my above findings in respect of Issue No. I, I hold that no relief is admissible to the 2nd Party Workman (Shri Satyabadi Behera).

11. Reference is answered accordingly.

S. K. DHAL, Presiding Officer

नई दिल्ली, 16 अगस्त, 2001

का. आ. 2341.—श्रीद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुमति में, केन्द्रीय सरकार योजना असमिया, प्रशिलकेशन डिवीजन के प्रबंधतावं के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट श्रीद्योगिक विवाद में श्रीद्योगिक अधिकरण गवहाटी के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-08-2001 को प्राप्त हुआ था।

[म.एन-42012/257/99-आई.आर. (डी.य.)]

कुलदीप राय बर्मा, डैस्क अधिकारी

New Delhi, the 16th August, 2001

S.O. 2341.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal-cum-Labour Court Guwahati as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Yojana Assamese, Publication Division and their workman, which was received by the Central Government on 16-8-2001.

[No. L-42012/257/99-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL, GUWAHATI, ASSAM

Reference No. 7(C) of 2000.

PRESENT :

Shri K. Sarma, LL.B.,
Presiding Officer,
Industrial Tribunal, Guwahati.

In the matter of an Industrial Dispute between :
The Management of
Editor-cum-Sr. Correspondent Yojana
(Assamese), Publication Division.

Versus

Their workman Sri Munna Kr. Das.

Date of Award : 25-7-2001.

AWARD

This Industrial Dispute has been referred to by the Government of India, Ministry of Labour under section 10 of the Industrial Dispute Act vide order No. L-42012/257/99-IR (DU) dated 2-3-2000 to adjudicate the dispute arising between the management of Editor-cum-Sr. Correspondent Yojana (Assamese) Publication and their workman, Sri Munna Kr. Das out of termination of his service as helper in the office of the Yojana of the Assam Unit, Publication Division, Ministry of I & B, Nowzad Road, Uzanbazar, Guwahati. The referring autho-

riy has framed the following issue to decide the matter of controversy between the parties :

"Whether the action of the management of Yojana Assamese, Publication Division, Guwahati in terminating the services of their workman Sh. Munna Kr. Das w.e.f. 1-9-99 is justified? If not, to what relief the workman is entitled?"

On receipt of reference, this tribunal has registered this case and issued notices to both the parties calling upon them to file their written statement, addl. written statement and documents if any and also to adduce oral evidence in support of their case, in response of which both the parties have appeared and filed their written statement, addl. written statement and documents and also adduced oral evidence.

After recording oral evidence, arguments advanced by the learned advocate, for both the parties are heard.

The workman case as appeared in the materials on record is that workman Munna Das was appointed as helper in the office of Yojana (Assamese) Unit, Publication Division, Ministry of I & B, Nowzan Road, Uzanbazar, Guwahati vide appointment order No. YA/ES/H/10/97 267 dated 1-8-97 which is ext. 'B' in this case on daily wages basis @Rs. 48 per day making payment at the end of the month. Before appointment the authority concerned has issued requisition to the local Employment Exchange in response to which employment authority has forwarded the name of present workman alongwith some other candidates for selection of the post of driver/helper on the daily wage basis. On receipt of name from Employment Exchange, the management has held an interview calling the candidate for the interview vide ext. 'A' calling letter and thereafter having found him qualified, the workman was appointed as helper on wage basis as stated above vide ext. 'B' appointment letter and the workman joined on 7-8-97 by submitting joining report ext. 'C'. It is to be stated that the workman in course of his duty as helper was ordered to work as chowkidar vide order dated 31-3-99 which is ext. 'D'.

The workman after appointment has discharged his duty to the best of his abilities till 31-3-99. It is to be mentioned that the authority being satisfied with the performance of the workman has issued a certified ext. 'E' on 20-7-99 appearing his duty. But 31-3-99 the workman was suddenly terminated from the service by the management vide order No. A-12034/6/97 dated 25-8-99 w.e.f. from 1-9-99 without any prior notice and without assigning any reason thereof.

The workman, thereafter being at a loss what to do, has filed a representation before the concerned labour authority who has tried to settle the matter amicably by holding conciliation between the parties, but having failed to settle the matter, the labour authority has submitted failure report to the appropriate Government who ultimately referred the matter to this tribunal for adjudication with the above mentioned issue.

The management, on the other hand, by filing written statement has contended inter alia that the

workman Munna Das was engaged on wage basis in order to meet the exigency of work as per direction of the superior authority as there was no regular vacancy against the post of driver/helper etc. As he was appointed as casual helper for the official Mobil Van for want of regular vacancy, the question of his regularisation does not arise. It is also contended that as the workman was engaged as casual worker on daily wages basis for performing job of casual nature, it is implied that his engagement is temporary and shall be terminated at any moment without showing any reason. This being the nature of engagement, the terminated of workman from his service does not require any notice and accordingly he was released from the service.

I have heard the argument advanced by learned advocate for the both the parties.

The learned advocate for the workman has submitted that the workman has completed 240 days of work in a year and hence he is entitled to regularisation. It is further contended that the termination of the workman after completion of 240 days of service without complying with the provision of law laid down of Section 25(F) of the I. D. Act is purely illegal and order of termination needs to be set aside. In support of his contention, the learned advocate for the workman has referred to case law AIR 1981 SC P. 1253

The learned advocate for the management has contended that the engagement of the workman was casual in nature and hence his termination did not require any notice nor compliance of provision of Section 25(F) of the I. D. Act and order of termination is quite legal and justified.

After hearing arguments of both the parties, I have carefully gone through entire material on record including oral evidence adduced by the workman. Management has not adduced any oral evidence but has submitted some documents alongwith the written statement. From the material on record any thing is clear that engagement of workman on casual basis has not been denied by the management. It is also established from the material on record that workman has completed 240 days of works in a year. It is also established from his evidence that the Mobil Van where workman was working is still functioning and have nature of work against which workman was engaged is perennial in nature. The management has not shown any reason about dismissal of the workman. It is also settled principle of law that even daily rated workman if he completes 240 days of work in a year can not be terminated without complying with Section 25(F) of I.D. Act which requires services of one month notice with a salary of one month. In the instant case the management has totally ignored the aforesaid provision of law which makes the order of termination illegal in the eyes of law. As the workman has completed 240 days of work in a year and his work is perennial in nature, his termination without any justified reason and without complying with Section 25(F) of the I. D. Act can not be said to justified and can not be allowed to stand in the eyes of law.

In the result, order of termination is held to be illegal and it is accordingly set aside. This reference

is accordingly an award in favour of the workman. The management is directed to re-engaged the workman in the capacity from which he was disengaged within a month from the date of this award. Please see award accordingly.

K SARMA, Presiding Officer

नई दिल्ली, 16 अगस्त, 2001

सं. आ 2342—ग्राम्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नीजगत रिम्च लेवारेटी के प्रबन्धता के सबध नियाजक तथा उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ग्राम्योगिक विवाद में केन्द्रीय सरकार ग्राम्योगिक अधिकरण भवनश्वर के पचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-08-2001 को प्राप्त हुआ था।

[सं. एल-42011/8/97—आर्ट आर (डी य)]
कुलदीप राय वर्मा, डैस्ट्रिक्ट अधिकारी

New Delhi, the 16th August, 2001

S.O. 2342.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Regional Research Laboratory and their workmen which was received by the Central Government on 16-8-2001.

[No. L-42011/8/97-IR(DU)]

KULDIP RAI VERMA, Clerk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

PRESENT :

Shri S. K. Dhal, OSJS, (Sr. Branch), Presiding Officer, C.G.I.T-cum-Labour Court, Bhubaneswar.

T. INDUSTRIAL DISPUTE CASE NO 148/2001

Dated Bhubaneswar, the 30th July, 2001

BETWEEN

The Management of the Director, Regional Research Laboratory, Bhubaneswar
1st Party-Management.

AND

Their workmen, represented through General Secretary, Regional Research Laboratory Workers Union, Bhubaneswar. 2nd Party-Workmen.

APPEARANCES :

Shri B. C. Bastia, Advocate, Bhubaneswar. . . For the 1st Party-Management.

Shri S. B. Nanda, Advocate, Cuttack. For the 2nd Party-Workmen.

AWARD

The Government of India in the Ministry of Labour, in exercise of powers conferred by Clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Dispute Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No L-42011/8/97-IR(DU) dated 7-11-1997 :—

“Whether the action of the management of Regional Research Laboratory in not regularizing the workmen as per Annexure-I of list enclosed even after completion of more than 240 days Service till 26-3-1995 is legal and justified ? If not what relief the workmen are entitled to ?”

2. While making reference intimation was sent to the Director, Regional Research Laboratory, Bhubaneswar (herein-after called as the 1st Party-Management) and to the General Secretary, Regional Research Laboratory workmens Union, Bhubaneswar, (herein-after called as the 2nd Party-workmen) with a direction to file their statements and documents. In pursuance to that both the parties have filed their statements and documents.

3. The case of the 2nd Party-workmen may be stated in brief. The 1st Party-Management is situated in the capital city of Bhubaneswar. It is one of the several Laboratories set up in the country under the auspices of Council of Scientific and Industrial Research. The 1st Party-Management is a permanent establishment functioning since mid sixties. The main object of the 1st Party-Management is to give aid and assistance to the establishment and development of Industrial Projects of both new and old whether sponsored by public or private or joint sector, improvement of indigenous technologies. It has

got work-shops, laboratories, libraries, institutes, plants and machineries. This institute has hostels, quarters, play grounds, parks and all that a developed industrial undertaking. It is further pleaded that the 1st Party-Management has on its rolls permanent officers and staff on the managerial, commercial, administrative, technical and supportive side numbering about 200. They get all service benefits as par with the Government employees. The workmen numbering 140 who were party to this reference stated to have worked continuously since several years and most of them were working for 5 to 17 years without interruption and in most cases in the same jobs repetitively and continuously. Their recruitment and subsequent engagements are by and for the 1st Party-Management. They were engaged in permanent and perennial jobs of the 1st Party-Management and worked along with regular workmen. Their work is being controlled and supervised by the supervisors/officers of the 1st Party-Management. Their wages were being paid by the 1st Party-Management. It has been further pleaded in the claim statement that, though lately some insidious efforts are made to give these workmen the appearance of contract labour in reality such attempt being unfairly made is sham and is only a paper arrangement. It has been further pleaded that the workmen had worked for more than 240 days continuously. As they were kept in a precarious position with very lately payments they could not raise any objection individually. Thereafter they formed the workers Union and represented to the 1st Party-Management for their regularization. As their prayer was turned down they raised dispute before the Labour Commissioner and in failure of the re-conciliation the matter was referred to the Government of India (Ministry of Labour) who in turn have made this reference as stated above.

4. It has been further pleaded that some of the workmen after serving for a number of years being frustrated with the administration and exploitative attitude of the 1st Party-Management left their jobs. They have prayed that to pass an award with appropriate direction to the 1st Party-Management to regularize the workmen retrospectively from the date of completion of one year as continuous service, to grant them equal wages and service condition for equal workers retrospectively and all other consequential reliefs with regard to their wages, service con-

ditions and security of service to which they are profusely entitled to.

5. The 1st Party-Management in their counter has pleaded the following. It is stated that the 1st Party-Management is not an Industry because the main objects are research work manifested in research and developmental projects. According to the 1st Party-Management the institute does not come with the ambit of definition of Industry under section 2(j) of the Industrial Dispute Act, 1947. Their specific case is that the dispute was initially raised by so called Regional Research Laboratory workers union on 16-11-1995. As on the aforesaid date all the 140 persons as per the list (sent along with the reference) were working under the contractor namely M.s. Expert Service. They had been working under the contractor since 1995. Prior to 1995, 85 labourers out of 140 were executing jobs on contract basis. Nothing positively known about the rest 55 persons whether they were working under the contractor or elsewhere. It has been specifically further pleaded that none of 140 workers were ever employed under the 1st Party-Management and payment was made by their organization. It has been admitted that, the job contractors were not given labour licence required under the provisions of contract labour act without asking for by the 1st Party-Management to obtain labour licences from the licensing authority to take up the job on contract basis. They did not produce and therefore no further contract was given to them. The 1st Party-Management has specifically taken the plea the entire work was allotted in favour of one contractor namely M's. Expert Service who was working in Regional Research Laboratory since 1994 and having labour license. So being aggrieved by such decision of the 1st Party-Management all the 140 contract workers raised dispute in the name and style of Regional Research Laboratory Workers Union and hence this reference. It has been proved that there does not exist master servant relationship between the 1st Party-Management and 2nd Party-workmen and so they are not entitled for any relief.

6. On the pleadings of the parties the following issues have been settled for consideration :—

1. Whether the reference is maintainable ?

2. Whether the employees involved in the dispute are employed by the Regional Research Laboratory ?
3. Whether the activities of R.R.L. are permanent and continuous in nature ?
4. Whether the workmen involved in the dispute are working continuously for 5 to 17 years ?
5. Whether the induction of contractor/contract system subsequently by the management of R.R.L. is unfair and sham and is only paper arrangement ?
6. Whether the practice adopted by the management of R.R.L. amounts to unfair labour practice ?
7. Whether the action of the management of R.R.L. in not regularizing the workmen as per Annexure-I of list enclosed even after completion of more than 240 days of service till 26-3-95 is legal and justified ?
8. To what relief the 3 workmen are entitled ?
7. On behalf of the 1st Party-Management, two witnesses have been examined. The Union has examined only one witness and number of documents have been exhibited in this case.

FINDINGS

ISSUE NO. I

8. Mr. Nanda, learned counsel appearing on behalf of the 2nd Party-workmen has submitted that the 1st Party-Management can not challenge the reference as not maintainable as it has not been pleaded in their pleadings i.e. in their written statement. According to Mr. Nanda no comments has been made in Para—1, 2, 3 & 5 of the claim statement and the contents of Para-4 of the claim statement has been admitted by the 1st Party-Management. Now the 1st Party-Management can not take a plea that the reference is not maintainable on the ground that the 1st Party-Management is not an Industry and the disputants are not workmen and that there is no relationship between the employer and employee. In his support he has submitted that if there is no denial in the written statement on any assertion of facts contained in the plaint, such facts asserted

must be deemed to have been admitted by the doctrine of admission by non-objection. Besides the above submission it has been further submitted on behalf of the 2nd Party-workmen that, if the 1st Party-Management being a research institute it can come under the definition of Industry. Reliance has been placed by him in the case of Bangalore Water Supply—Vrs.—A. Rajappa, reported in AIR 1978 SC 548. Inviting the attention of the Tribunal that the evidence of the Management Witness No. 1 it has been submitted that in view of his admission that the Management is a registered and principal employer under the contract Labour act applicable to industry and so the Management comes under the definition of industry.

9. On the other hand Mr. Bastia, learned counsel appearing on behalf of the 1st Party-Management has submitted that the organization of the 1st Party-Management does not carry out any trade business or commercial activities and research results are not sold for money. So the organization being a research institute does not come within the definition of Industry under section 2(j) of the Industrial Dispute Act. He has placed reliance in the case of Physical Research Laboratory—Vrs.—K. G. Sharma report in 1997 (2) LIJ 625 (SC).

10. I am not inclined to agree with Mr. Nanda that, the 1st Party-Management has admitted that it is an Industry. Even though no comment has been made to Para—1, 2, 3 & 5 no where it is admitted that, the 1st Party-Management comes under the definition of an Industry. Rather in the written statement of Para-3 it has been specifically pleaded that, the organization does not come within the ambit of definition of Industry under section 2(j) of the Industrial Dispute Act. In the case of Physical Research Laboratory—Vrs.—K. G. Sharma on which reliance has been placed on behalf of the 1st Party-Management, the labour court recorded finding that Physical Research Laboratory is an Industry. The Apex Court after referring number of cases of different High Courts and Supreme Court had set aside the order of the lower court. The following observations have been made by the Apex Court :—

“We are, therefore, of the opinion that Physical Research Laboratory is not an industry even though it is

carrying on the activity of research in a systematic manner with the help of its employees as it lacks that element which would make it an organization carrying on an activity which can be said to be analogous to the carrying on of a trade or business because it is not producing and distributing services which are intended or meant for satisfying human wants and needs, as ordinarily understood".

11. I find substantial force in the submission made on behalf of the 1st Party-Management that, it does not carry out any trade business or commercial activities and the research results are not sold for money. In my humble opinion the case law in which reliance has been placed on behalf of the 1st Party-Management squarely supports its case or the other hand in my opinion the Regional Research, Laboratory, the organization of the 1st Party-Management would not come under the definition of an Industry as per Industrial Dispute Act 1947. Mr. Nanda has invited the attention of this Tribunal to the evidence of Witness No. 1 examined on behalf of the Management who is stated that the 1st Party-Management is a registered principal employer under the contract of Labour and the said Act is applied to the Industry and so now it can not be said that the 1st Party-Management is not an Industry. The case which was stated by Mr. Nanda (Bangalore Water Supply Vrs. A. Rajappa, reported in AIR 1978 SC 548) was referred to by the Apex Court in case to Physical Research Laboratory, Vrs. K. G. Serma. In view of the observations made by the Apex Court the evidence of the witness examined on behalf of the Management will not help to the 2nd Party Union with effect that the 1st Party-Management is not an Industry under the Industrial Dispute Act. In view of the observations of the Apex Court, I am not inclined to burden this award by referring to the documents filed and referred to by the 2nd Party-Union in this regard. Hence, I agree with Mr. Bastia, learned counsel appearing for the 1st Party-Management that, Regional Research Laboratory, the organization of the 1st Party-Management is not an Industry. During course of argument it was submitted on behalf of the 2nd Party-Union that, the dispute raised by the Union was conciliated by the Assistant Labour Commissioner (Central)

and thereafter it was referred by the Central Government under the provisions of Industrial Dispute Act to this Tribunal and when no protest has been made by the 1st Party-Management, the plea taken by the 1st Party-Management that the organization of the 1st Party-Management is not an Industry should not be accepted. I am unable to accept the above submission made on behalf of the 2nd Party-Union. No doubt the reference has been made by the Government of India under the provisions of the Industrial Dispute Act to answer the reference by the Tribunal. While reference is made both the parties are being intimated to file their claim statements before the Tribunal. On receipt of the statements from both the parties the Tribunal after hearing the parties frames issues and after taking both oral and documentary evidence answer the reference. Opportunities are being given to the both the parties to place their case before the Tribunal to assist it to answer the reference. There is no bar that, no party can take any stand while filing the written statement though it was not raised at the stage of conciliation. Admittedly when the Government of India makes reference the parties are not heard. In this case on receipt of the copy of the claim statement from the 2nd Party-Union, the 1st Party-Management has filed their written statement wherein they have taken the stand that the reference is not maintainable because the organization of the 1st Party-Management does not come under the definition of Industry. So in my opinion even if no stand was taken by the 1st Party-Management before the reconciliation officer that the organization of the 1st Party-Management does not come under the definition of Industry, it cannot be binding on the Tribunal to accept that the 1st Party-Management has admitted that the Organization is an Industry.

12. As per my above discussion, I am of the opinion that the 1st Party-Management i.e. Regional Research Laboratory is not an Industry. So the reference made under section 10 the Industrial Tribunal Act is not maintainable. Hence, this Issue No. I is answered in favour of the 1st Party Management.

13. ISSUE NO. II & IV :

As both the issues are inter-related to each other they are taken together for discussion.

Only one witness has been examined on behalf of the 2nd Party-Union in support of their case that, they were employed by the 1st Party-Management and they have worked continuously for 5 to 17 years. Reference has been made to the Ext. 5, 9, 11, 12, 13, 14, 16, 17, 18, 19, 22, 23, 24, 25 & 28 which have been admitted on admission of both the parties to support the case of the 2nd Party-Union that there was direct master and servant relationship between the 2nd Party-Union and the 1st Party-Management. Mr. Nanda, the learned Counsel appearing on behalf of the 2nd Party-Union has submitted that the deposition to witness examined on behalf of the workman at Para-9, 14 & 25 has not been shaken in the cross examination and so this Tribunal can safely come to the conclusion that the workmen were working under the direct control of the 1st Party-Management. Mr. Nanda has further submitted that when the reference has been made indicating that the workmen have worked for 5 to 17 years, it would be presumed that each workman has worked for more than 240 days continuously in the Organization of 1st Party-Management. He has invited the attention of this Tribunal the evidence of the Witness No. 1 examined on behalf of the workman who is supported the case of the Union. On the other hand Mr. Bastia has submitted that the reference has been made for regularization of 140 persons as per the list enclosed. This dispute was initially raised by the so called Regional Research Laboratory Workers Union on 16-11-1995. According to the 1st Party-Management as on the aforesaid date all the 140 persons were working under the Contractor namely M/s. Expert Service. They have been working under the contractor since 1995. Now only 85 persons out of 140 persons have taken part in the proceeding, nothing positively known about the rest 55 persons. It is not known whether they were working under M/s. Expert Service or else where. Much emphasis has been given in Ext. D, a letter 16-11-1995 written by the Secretary Regional Research Laboratory Workers Union wherein the demand was put up for regularization before the Asst. Labour Commissioner (Central). In that letter it was clearly mentioned that, the workers were working under the job contract basis and the Management insisted them to obtain a Labour licence. This fact has been admitted by the witness examined on behalf of the workman. This witness has admitted that the particulars of the

workmen including salary, designation furnished in the list enclosed to their charter of documents at Ext.-D have been furnished by the Union and they do not have any paper to show about the correctness of the particulars as regard to the designation and salary furnished in the said list. After hearing both the parties and perusal of the documents available this Tribunal, I am of the opinion that, the 2nd Party-Union has failed to place the evidence and materials to prove that they were the employees employed by the 1st Party-Management and they have worked continuously for 5 to 17 years. On the other hand the case of the 1st Party-Management that they were working under the contractor M/s. Expert Service appears to be probable. Hence these two issues are answered in favour of the 1st Party-Management.

14. ISSUE NO. III, V & VI :

I am not inclined to express any opinion in respect of these issues as there is no reference in this regard while making reference.

15. ISSUE NO. VII :

In view of my findings in respect of Issue No. II & IV I am of the opinion that the 2nd Party-Union has failed to establish that they were working for more than 240 days till 26-3-1995. I am unable to accept the submission made on behalf of the 2nd Party-Union that when the reference has been made stating that the workmen have worked for 240 days would be presumed that they have worked for 240 days in a calendar year till 26-3-1995. The Tribunal is free to answer the reference and the terms of reference will not be binding on it. The reference has been made on the following effect :—

“Whether the action of the management of Regional Research Laboratory is not regularizing the workmen as per Annexure-I of list enclosed even after completion of more than 240 days service till 26-3-1995 is legal and justified ? If not what relief the workmen are entitled to ?”

In my opinion, because it has been mentioned that even after completion of 240 days has been mentioned the Tribunal is not bound to accept that each worker has completed 240 days service till 26-3-1995. As I have already stated in view of my findings in respect of Issue No. II & IV, I am of the opinion

the 2nd Party-Union has failed to establish that the workmen have worked for more than 240 days. This issue is also answered in favour of the Management.

16. ISSUE NO. VIII :

In view of my findings in respect of Issue No. I to VII, the workmen are not entitled any relief.

17. Reference is answered accordingly.

S. K. DHAL, Presiding Officer

नई दिल्ली, 16 अगस्त, 2001

का. प्रा. 2343 —प्रांतीयिक विवाद अधिनियम, 1947 (1947 का 14) की धा. 17 के अनुसरण में, केन्द्रीय सरकार कमांडर स्टेशन हेडक्वार्टर्स (डिफेंस) के प्रबंधनकार्य के सब नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट आंतरिक विवाद में आंतरिक अधिकरण गुवाहाटी के पचाट का प्रकाशन करनी है, जो केन्द्रीय सरकार का 16-8-2001 का प्राप्त हुआ था।

[म. एव-14012/44/99-आई ग्रा. (डी.प.)]
कृतदीप राय सर्मा, डैस्ट्रिक्ट अधिकारी

New Delhi, the 16th August, 2001

S O 2343.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal-cum-Labour Court, Guwahati, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Commander Station Headquarter (Defence) and their workman, which was received by the Central Government on 16-8-2001.

[No. L-14012/44/99-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL, GUWAHATI,
ASSAM

Reference No. 35(C) of 1999

PRESENT :

Shri K. Sarma, I.L.B.,
Presiding Officer,
Industrial Tribunal, Guwahati.

In the matter of an Industrial Dispute between :
The Management of the
Commander Station Headquarter
(Defence) Rangiyा.

Vs.

Their workman Smt. Jhuma Bardhan.

Date of Award : 23-7-2001

AWARD

This Industrial Dispute has been referred to by the Govt. of India, Ministry of Labour under section 10 of the Industrial Dispute Act, vide order No. L-14012/44/99-IR(DU) dtd. 19-11-99 to adjudicate the dispute arising between the management of Commander Station Headquarter (Defence) Rangiyा, and their workman, Smt. Jhuma Bardhan out of termination of her service w.e.f. 13-10-90. The referring authority has framed the following issue for the purpose of adjudicating the matter of controversy between the parties .

“Whether the action of the management in terminating service of Smt. Jhuma Bardhan w.e.f. 13-10-90 is legal & justified ? If not, to what relief the workman is entitled ?”

On receipt of reference, this tribunal has registered this case and issued notices to both the parties calling upon them to file their written statement, addl. written statement and documents, if any, and also to adduce oral evidence in support of their case, in response of which both the parties have appeared and filed their written statement, addl. written statement and submitted document. The workman has adduced her own evidence as W.W.1 and management has not adduced any oral evidence.

After completion of recording evidence arguments advanced by the learned advocate for both the parties are heard.

The case of the workman as revealed from the material on record is that the workman was appointed as post of Civilian Switch Board Operator on temporary basis at Rangiyा under Station Headquarter (Defence) on 15-5-85. It is be mentioned that the name of the workman was sponsored by the local Employment Exchange, Guwahati for the purpose of appearing before the selection board to be held by the management. Accordingly workman alongwith 10 others were selected and appointed after due medical examination. The workman joined in her job on 1-6-85 and since then she was continuously working till 12-10-90. It is also contended by the workman in her written statement that as she fell sick she could not attend her duty on and from 13-10-90 and thereafter also could not attend her duty due to her advance stage of pregnancy for which she was admitted to N. F. Railway Hospital at Maligaon on 29-3-91 from where she was discharged on 1-4-91 after delivery of a child. As she was not in a position to attend her duty immediately after delivery. She took rest and thereafter to attend her duty in the month of May, 1991. It is further stated in her written statement that the management did not allow her to join her duty stating that she was terminated from her service. But, no formal termination letter was served on her. As the workman was not allowed to join her duty even after repeated request, he having left with no other alternative has raised the Industrial Dispute.

The management on the otherhand, by filing written statement, has contended that workman was appointed purely on temporary basis on wage basis

during the period of operation Rhino and after closure of the operation, she was released from her duty. It is further contended that workman has never informed the management as to her illness nor about her pregnancy nor any application was filed seeking leave. In view of this the question of illegal termination by the management, as alleged by the workman does not arise.

I have heard the argument advanced by the learned advocate for the workman who has mainly contended that the workman has completed 240 days of service continuously in a year and as such she can not be terminated by the management without complying with law laid down in Sec. 25(F) of I.D. Act. It is further contended that when the workman completed 240 days of work continuously in a year, she accures the status of a temporary workman and can not be terminated without following aforesaid provision of law. It is further contended that work done by workmen, is permanent in nature and requires technical skill and her initial appointment on wages basis without appointing her as regular employee is nothing but unfair labour practice and her subsequent termination without reasonable ground has further aggravated the situation. Considering all these aspect, he submits for reinstatement of the workman with all back wages.

The learned advocate for the management, on the otherhand, has made his submission in the light of the contention raised in the written statement.

I have carefully considered the submission raised by the learned advocate for both the parties and perused the record. From the persual of the material on record, I find that the workman was continuously working till 13-10-90, but due to illness or pregnancy, whatever reason it may be, she can not attend her duty since aforesaid date and went to join on 1-4-91, but management did not allow her to join. But from the persual of the material on record, I do not find any documents in support her contention that she has applied for leave. In view of this the cause of absent of workman since 1990 to 1-4-91 can not be ascertained. Moreover, the alleged termination done by the management on 1-4-91 i.e. the day on which the workman was not allowed to join her duty by the management, but present Industrial dispute was raised by the workman in the year 1999. It is not known why workman was sleeping on her right for 8 to 9 years. It is true that there is no pacific time limit under I.D. Act, 1947 for the purpose of raising any industrial dispute, but rule of equity demands that any claim seeking any relief in the Court of law should be raised without unreasonable delay. If there is reasonable delay it should be properly explained to the satisfaction of the authority concerned. There is a well known maxim that delay defeats equity. This being the principle of enquiry and law I find that long delay of 8 to 9 years in raising the industrial dispute has made the case of the workman cloudy as to its genuiness whether she voluntarily remains absent from duty or her engagement was purely temporary

as contended by the management, for which she was released. As the dispute is raised by the workmen, it is her duty to establish that her claim is genuine to this satisfaction of the tribunal to grant appropriate relief.

In view of the aforesaid fact and circumstance of the case, I find it difficult to answer the issue in favour the workman and accordingly I refrain from doing the same.

In the light of my above discussion, I hereby dispose the reference finally without answering the issue in favour of the workman. Prepare an award accordingly

K. SARMA, Presiding Officer

तर्द दिनली, 27 अगस्त, 2001

का.आ. 2344—आंदोलिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 33ए की उप-धारा (2) द्वारा प्रदल शक्तियों का प्रयोग करते हुये, केन्द्र सरकार भारत सरकार के श्रम, रोजगार तथा प्रत्वार्म मंत्रालय (श्रम तथा रोजगार विभाग) के दिनांक 14 जनवरी, 2001 के का.आ. संख्या 271 की अधिसूचनाओं में प्रदर्शित निम्नांकित संशोधन करनी है. अर्थात् :—

उक्त अधिसूचना के माय दी गई तालिका में क्रम सं. 3(ख), (ग) तथा (घ) और उनमें सन्वद्ध प्रविष्टियों के लिये निम्नांकित प्रविष्टियों को प्रतिस्थापित किया जायेगा, अर्थात् :—

क्रम सं. 11 तथा उसमें सन्वद्धित प्रविष्टियों के लिये निम्नांकित प्रविष्टियां भी शामिल की जायेंगी —

भारत सरकार के पर्व के श्रम एवं रोजगार मंत्रालय के दिनांक 29 जनवरी, 1965 के सा.आ. सं. 441 की अधिसूचना द्वारा, उक्त अधिनियम की धारा 7 के तहत सनना, गीता, छन्तरपुर, पन्ना तथा मिठ्ठि जिलों को केन्द्रीय सरकार औंदोलिक अधिकरण के अधिकार लेन में लाया गया है।

क्रम सं. 21 तथा उसमें सन्वद्ध

प्रविष्टियों के लिये निम्नांकित

प्रविष्टियां भी शामिल की जायेंगी —

भारत सरकार के श्रम मंत्रालय के दिनांक 26 सितम्बर, 1975 की अधिसूचना संख्या एस-11025/3/75-डीकेआई-ग द्वारा, उक्त अधिनियम की धारा 7 के तहत स्थापित श्रम न्यायालय, कानपुर

मैना, भिड, ग्वालियर, दीतपा तथा टीकमगढ़ जिलों को केन्द्रीय सरकार औंदोलिक अधिकरण, कानपुर के प्रधि कार लेन में लाया गया है।

(घ) क्रम सं. 22 तथा इसमें गम्भीर प्रविष्टियों के लिये, अर्थात् —

भारत सरकार के अम मंत्रालय के दिनांक 30 अगस्त, 1999 के सां आ. 2611 द्वारा अधिसूचित, उक्त अधिनियम की धारा 7 के तहत स्थापित अम न्यायालय, लखनऊ।

मुराइना, भिंड, ग्वालियर, दणिया, टीकमगढ़, सतना, गीदा, छत्तरपुर, पत्ता तथा मिद्दू जिन्हों को केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के अधिकार क्षेत्र से, अवग रखा जाये। हरिद्वार जिले को केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के अधिकार क्षेत्र में लाया गया है।

[फा.मं. जैड-13011/1/97-सीएनएस-II]

कृष्णा शर्मा, अवर सचिव

New Delhi, the 27th August, 2001

S.O. 2344.—In exercise of the powers conferred by sub-section (2) of Section 33 C of the Industrial Disputes Act, 1947, (14 of 1947), the Central Government hereby makes the following further amendments in the notification of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour & Employment) No. S.O. No. 271 dated the 14th January, 2001, namely:

In the Table annexed to the said notification, for serial No. 3 (b)(c)&(d) and the entries relating thereto, the following entries shall be substituted, namely:—

For serial No. 11 and the entries relating thereto, the following entries shall also be included:—

Labour Court, Jabalpur constituted under Section

The districts of Satna, Rewa, Chattarpur,

7 of the said Act, by the Notification of the Govt. of India in the late Ministry of Labour and Employment No. S.O. No. 441, dated the 29th January, 1965 For serial No. 21 and the entries relating thereto, the following entries shall also be included:—

Labour Court, Kanpur constituted under Section 7 of the said Act, by the Notification of the Govt. of India in the Ministry of Labour No. S-11025/3/75-DKI-A dated 26th September, 1975.

The districts of Muraina, Bhind, Gwalior, Datia and Tikamgarh are brought under the jurisdiction of CGIT, Kanpur

(d) For serial No. 22 and the entries relating thereto namely:—

Labour Court, Lu. know constituted under Section 7 of the said Act, by the Notification of the Govt. of India in the Ministry of Labour S.O. 2611 dated 30th August, 1999.

The districts of Muraina, Bhind, Gwalior, Datia, Tikamgarh, Satna, Rewa, Chittarpur, Panna and Sidhi may be excluded from the jurisdiction of CGIT-cum-Labour Court, Lucknow. The district of Haridwar is brought under the jurisdiction of CGIT-cum-Labour Court, Lucknow

[F.No. Z-13011/1/97-CLS.II]

KRISHNA SHARMA, Under Secy.